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## TITLE 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 25—FEDERAL EMPLOYEES' PAY REGULATIONS

##### REVOCATION OF SECTIONS

Effective November 1, 1955, §§ 25.401 through 25.408 of Subpart D are revoked. (Sec. 1101, 63 Stat. 971; 5 U. S. C. 1072)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] Wm. C. HULL,  
*Executive Assistant.*

[F. R. Doc. 55-9127; Filed, Nov. 10, 1955; 8:47 a. m.]

## TITLE 7—AGRICULTURE

### Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

#### PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

##### REMOVAL OF SAMPLES

Pursuant to the authority contained in section 4863 of the Internal Revenue Code of 1954 (Public Law 591, 83d Congress, 68A Stat. 582; 26 U. S. C. Supp. 4863) § 27.28 of the regulations relating to cotton classification (7 CFR 27.28, as amended, 20 F. R. 6373) is hereby amended to read as follows:

§ 27.28 *Removal of samples.* (a) Samples in the custody of the Department of Agriculture that are not removed in accordance with paragraphs (b) and (c) of this section shall become the property of the Department of Agriculture and be disposed of in accordance with § 27.86.

(b) The sample may be removed, by the current holder of the cotton classification certificate covering the cotton represented by such sample, at any time within 30 days after whichever of the following occurs first: (1) Such certificate becomes invalid as provided in § 27.42, or (2) the certificate (covering tenderable cotton) is surrendered for cancellation without the issuance of a new certificate in lieu thereof, or (3) the cotton is classified as untenderable

and an application for review is not filed within the time specified in § 27.62: *Provided*, That the chairman of the board of cotton examiners may for good cause retain the samples for a longer period.

(c) In case a classification request shall be withdrawn prior to the classification of the cotton pursuant thereto, the applicant may, within 30 days after the date of such withdrawal, remove any samples of the cotton involved then in the possession of the Department of Agriculture.

This amendment deletes the following 2 conditions under either of which holders of cotton classification certificates (warehouse receipts) could formerly remove samples from the custody of the Department of Agriculture: (1) The classification of the cotton had been reviewed and a fiber fineness and maturity determination had been made, and (2) a period of 1 year had elapsed following the date of issuance of the original cotton class certificate.

The amendment harmonizes the regulation on removal of samples with the present rules of the cotton futures exchanges and will avoid confusion and inconvenience to tenderers and receivers of cotton on futures contracts by assuring that the samples of cotton certified as tenderable under the regulations will be available for removal by the final receiver who decertificates the cotton represented by the samples. The exchanges have requested amendment of the regulations for this purpose. The amendment requires no preparation on the part of users of the classification service. It should be made effective as soon as possible in order to be of maximum benefit to affected persons. Therefore under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found upon good cause that notice of rule-making and other public procedure with respect to the amendment are impracticable and contrary to the public interest and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 4863, 68A Stat. 582; 26 U. S. C. Supp. 4863)

(Continued on next page)

## CONTENTS

	Page
<b>Agricultural Marketing Service</b>	
Notices:	
Amarillo Stockyards, Inc., Amarillo, Tex., deposing of stockyard.....	8466
Proposed rule making:	
Cotton standards; cotton sampling.....	8465
Rules and regulations:	
Cotton classification under cotton futures legislation; removal of samples.....	8443
Dairy products; grading and inspection.....	8444
Lemons grown in California and Arizona:	
Handling of.....	8451
Limitation of shipments.....	8452
Milk in Greater Wheeling, W. Va., marketing area; suspension of certain provisions.....	8453
Oranges, navel, grown in Arizona and designated part of California; limitation of handling.....	8451
Potatoes, Irish, grown in Modoc and Siskiyou Counties in California and all counties in Oregon except Malheur County approval of expenses and rate of assessment.....	8452
Raisins produced from raisin variety grapes grown in California; handling of.....	8453
<b>Agriculture Department</b>	
<i>See</i> Agricultural Marketing Service.	
<b>Civil Aeronautics Board</b>	
Notices:	
TAN Airlines et al., order instituting investigation.....	8466
<b>Civil Service Commission</b>	
Rules and regulations:	
Federal employees' pay regulations; revocation of certain sections.....	8443
<b>Commerce Department</b>	
<i>See</i> Federal Maritime Board.	
<b>Federal Housing Administration</b>	
Rules and regulations:	
Home rehabilitation insurance; eligibility requirements of mortgage covering one-to eleven-family; maximum mortgage amount; loan-to-value limitation.....	8454



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#### CONTENTS—Continued

<b>Federal Maritime Board</b>	Page
Notices:	
Matson Navigation Co. and Johnson Line.....	8466
<b>Federal Trade Commission</b>	
Rules and regulations:	
General Products Corp. et al., cease and desist order.....	8453
<b>Foreign Assets Control</b>	
Notices:	
Firecrackers; importation from Hong Kong and Macao.....	8466
Hair of certain animals, and cotton and silk waste; impor- tation from countries not au- thorized trade territory applications for licenses.....	8465

#### CONTENTS—Continued

<b>Housing and Home Finance Agency</b>	Page
See Federal Housing Administra- tion.	
<b>Internal Revenue Service</b>	
Proposed rule making:	
Income tax; taxable years be- ginning after Dec. 31, 1953; depreciation.....	8454
<b>Securities and Exchange Com- mission</b>	
Notices:	
Hearings, etc..	
Engineers Public Service Co. et al.....	8467
Los Angeles Stock Exchange..	8468
<b>Treasury Department</b>	
See Foreign Assets Control; In- ternal Revenue Service.	

#### CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

<b>Title 5</b>	Page
Chapter I.	
Part 25.....	8443
<b>Title 7</b>	
Chapter I.	
Part 27.....	8443
Part 28 (proposed) .....	8465
Part 58.....	8444
Chapter IX.	
Part 914.....	8451
Part 953 (2 documents) .....	8451, 8452
Part 959.....	8452
Part 989.....	8453
Part 1002.....	8453
<b>Title 16</b>	
Chapter I.	
Part 13.....	8453
<b>Title 24</b>	
Chapter II.	
Part 261.....	8454
Part 266.....	8454
<b>Title 26 (1954)</b>	
Chapter I.	
Part 1 (proposed) .....	8454

Done at Washington, D. C., this 8th  
day of November 1955.

[SEAL] FRANK E. BLOOD,  
*Acting Deputy Administrator*  
*Agricultural Marketing Service.*

[F. R. Doc. 55-9130; Filed, Nov. 10, 1955;  
8:47 a. m.]

#### PART 58—GRADING AND INSPECTION OF DAIRY PRODUCTS

SUBPART B—MINIMUM SPECIFICATIONS FOR  
APPROVED PLANTS MANUFACTURING, PROC-  
ESSING, AND PACKAGING DAIRY PRODUCTS  
UNDER UNITED STATES DEPARTMENT OF  
AGRICULTURE INSPECTION<sup>1</sup>

A notice of proposed rule making cov-  
ering issuance of Minimum Specifica-

<sup>1</sup> Compliance with these specifications does  
not excuse failure to comply with the pro-  
visions of the Federal Food, Drug, and  
Cosmetic Act.

tions for Approved Plants Manufactur-  
ing, Processing, and Packaging Dairy  
Products under United States Depart-  
ment of Agriculture Inspection was pub-  
lished in the FEDERAL REGISTER of August  
10, 1955 (20 F. R. 5780) and afforded  
interested persons the opportunity to  
submit written data, views or arguments  
in connection therewith. The minimum  
specifications hereinafter promulgated  
are pursuant to authority contained in  
the Agricultural Marketing Act of 1946  
(60 Stat. 1087; 7 U. S. C. 1621 et seq.)  
The minimum specifications are approx-  
imately identical to the provisions pub-  
lished as proposed rule making with  
minor changes and additions as follows:  
For the purpose of clarification, slight  
changes have been made in the wording  
of §§ 58.105, 58.107, 58.136 and 58.143 (l).  
For the purpose of providing a more spe-  
cific procedure, additions have been  
made to §§ 58.143 (a) and (d), 58.144 (b)  
and 58.176.

The minimum specifications will  
supersede the current provisions of "In-  
structions Governing Plants Operating  
as Official Plants Processing and Pack-  
aging Dairy Products." These revised  
minimum specifications will be used by  
the Department in providing the dairy  
industry with voluntary inspection and  
grading service applicable to manufact-  
ured or processed dairy products. Such  
inspection and grading service will be  
provided to the industry only upon re-  
quest by the applicant. Full cost of the  
service will be borne by the company or  
organization utilizing same.

Revision of these minimum specifica-  
tions is based on the Department's ex-  
perience in providing voluntary inspec-  
tion and grading service in the past and  
on the basis of many informal discus-  
sions and suggestions by all major seg-  
ments of the dairy industry.

After consideration of all relevant  
material presented, including the pro-  
posals in the aforesaid notice of rule  
making, the minimum specifications  
hereinafter set forth are promulgated  
to become effective 30 days after publica-  
tion in the FEDERAL REGISTER

The minimum specifications are as  
follows:

DEFINITIONS	
Sec.	
58.101	Approved laboratory.
58.102	Approved plant.
58.103	Bacterioidal treatment.
58.104	Cream.
58.105	Dairy products.
58.106	Grader.
58.107	Inspector.
58.108	Milk.
58.109	Rules and regulations.
58.110	USDA.
PURPOSE	
58.120	Approved plants operating under USDA inspection.
APPROVED PLANTS	
58.122	Survey and approval.
58.123	Suspension of plant approval.
PREMISES, PLANT, FACILITIES, EQUIPMENT AND UTENSILS	
58.127	Premises.
58.128	Building.
58.129	Facilities.
58.132	Equipment and utensils.
PERSONNEL, CLEANLINESS AND HEALTH	
58.135	Cleanliness.
58.136	Health.

SPECIFICATIONS FOR RAW MILK AND FARM  
SEPARATED CREAM

- Sec.  
58.142 Transportation and protection of raw material while in transit.  
58.143 Specifications for raw milk.  
58.144 Specifications for farm-separated cream.  
58.147 Alternate quality programs.

## OPERATIONS AND OPERATING PROCEDURES

- 58.150 Clean and sanitary methods.  
58.151 Segregation of raw material.  
58.152 Raw material deterioration.  
58.153 Milk or cream storage.  
58.158 Pasteurization.  
58.159 Product contamination.  
58.160 Checking quality.  
58.161 Wholesomeness.  
58.162 Product stability.  
58.168 Cleaning and bactericidal treatment of equipment and utensils.  
58.169 Plant records.

## PACKAGING AND GENERAL IDENTIFICATION

- 58.175 Containers.  
58.176 Packaging and repackaging.  
58.177 General identification.

## STORAGE OF FINISHED PRODUCT

- 58.182 Dry storage.  
58.183 Refrigerated storage.

INSPECTION, GRADING, AND OFFICIAL  
IDENTIFICATION

- 58.187 Grading.  
58.188 Inspection.  
58.189 Official identification.  
58.190 Local or state regulations and specifications.  
58.195 Explanation of terms.

AUTHORITY: §§ 58.101 to 58.195 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624.

## DEFINITIONS

§ 58.101 *Approved laboratory.* An "approved laboratory" is one in which the entire facilities and equipment have been approved by the Administrator as being adequate to perform the necessary official tests in accordance with the rules and regulations in this part.

§ 58.102 *Approved plant.* "Approved plant" means one or more adjacent buildings, or parts thereof, comprising a single plant at one location in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for operation under inspection or grading service and in which inspection or grading is carried on in accordance with the regulations in this part.

§ 58.103 *Bactericidal treatment.* "Bactericidal treatment" means subjection to an acceptable sanitizing agent.

§ 58.104 *Cream.* "Cream" means that portion of milk, which is produced by healthy cows located in modified tuberculosis-free areas or from cows in herds fully accredited as tuberculosis-free by the United States Department of Agriculture, and which rises to the surface on standing or is separated by centrifugal force and contains not less than eighteen percent of milk fat.

§ 58.105 *Dairy products.* "Dairy products" means butter, cheese (whether natural or processed) milk, cream, milk products (whether dried, evaporated, stabilized or condensed) ice cream, dry whey, dry buttermilk, and such other

perishable dairy products as the Secretary may hereafter designate. Such term shall also include any food product which is prepared or manufactured from any of the aforesaid products if such products constitute at least 50 percent, by weight, of all the ingredients used in the preparation or manufacture of such food product. Such food product shall not contain any fats except milk fats and those fats inherent to the food product graded.

§ 58.106 *Grader "Grader"* means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the act and this part, to shippers of products and other interested parties the class, quality, quantity, and condition of such products.

§ 58.107 *Inspector "Inspector"* means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to inspect and certify quality, quantity, and condition of products, supervise the operation in an approved plant and perform plant surveys.

§ 58.108 *Milk.* "Milk" means the whole lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows located in modified tuberculosis-free areas or from cows in herds fully accredited as tuberculosis-free by the United States Department of Agriculture.

§ 58.109 *Rules and regulations.* The term "rules and regulations" contained in Subpart A of this part; and all other terms which are used in this subpart shall have the meaning applicable to such terms as defined in said rules and regulations.

§ 58.110 *USDA.* The term "USDA" means the United States Department of Agriculture.

## PURPOSE

§ 58.120 *Approved plants operating under USDA inspection.* (a) The minimum specifications established in this subpart provide the basis for a quality improvement program which may be effectively carried forward through official inspection and grading service. Adoption of certain sound practices at dairy plants should significantly aid operators to more consistently manufacture uniform high-quality stable dairy products. Dairy products processed and packaged in an approved plant shall be graded and/or inspected and may be identified with official inspection and/or grade labels. Such standardized dairy products properly labeled and merchandised should encourage greater consumer acceptance and use of dairy products.

(b) This USDA inspection service is provided to dairy plants on a voluntary basis. The operator of any dairy plant desiring to have such plant qualified as an approved plant under USDA inspection service may request a survey of such plant, premises, equipment, facilities, and raw material to determine whether

they are adequate to permit plant operation in accordance with the minimum specifications contained in this subpart. The cost of this survey shall be borne by the applicant. The cost of the inspection service, after inauguration of the program, includes the salary of an inspector(s) or grader(s) plus a prescribed administrative charge.

## APPROVED PLANTS

§ 58.122 *Survey and approval.* (a) Prior to the inauguration of USDA inspection and grading service in a plant, a designated representative of the Administrator shall make a survey and inspection of the plant, premises, and raw material, including a general review of the course of supply, volume of raw material processed daily and facilities for handling the raw material at the initial receiving point and the plant, to determine whether the facilities, equipment, method of operation, and raw material being received are adequate and suitable for grading service in accordance with the provisions of this part and such further specifications which may hereafter be issued with respect to minimum requirements, facilities, operating methods and procedures, raw materials, and sanitation in the plant and which are in effect at the time of the aforesaid survey and inspection.

(b) A plant may be designated as an "approved plant" for inspection and grading service only upon compliance with the requirements of this part, and at such time as the management is prepared and has agreed to operate the plant in accordance therewith.

(c) The cost of performing a plant survey shall be borne by the applicant requesting such survey.

§ 58.123 *Suspension of plant approval.* Any plant approval may be suspended for (a) failure to maintain plant and equipment in a sanitary and satisfactory operating condition, (b) the use of unwholesome raw material or use of operating procedures which are not in accordance with the provisions of this part, (c) failure to process or manufacture stable product, (d) failure to maintain legal composition of the finished product, or (e) major alterations of buildings, facilities, or equipment, without prior approval by the Administrator.

PREMISES, PLANT, FACILITIES, EQUIPMENT,  
AND UTENSILS

§ 58.127 *Premises.* (a) The premises shall be kept in a clean and orderly condition, and should be free from strong or foul odors, smoke-laden or excessive air pollution. Dust in driveways and immediate plant area should be kept to a minimum.

(b) The outside surroundings shall be also free from refuse, rubbish, and waste materials to prevent harborage of rodents, insects, and other vermin.

(c) A suitable drainage system shall be provided to allow rapid drainage of all water from plant buildings and surface water around the plant and on the premises, and all such water shall be disposed of in such a manner as to prevent a nuisance or health hazard.

§ 58.128 *Building.* The building or buildings shall be of sound construction and kept in good repair to prevent the entrance or harboring of insects, rodents, vermin, dogs, and cats. All pipe openings shall be completely cemented or provided with tight metal collars.

(a) *Outside doors, windows, openings, etc.* All openings to the outer air, including doors, windows, skylights, and transoms shall be effectively protected or screened against the entrance of flies and other insects, rodents, dust, and dirt. All outside doors opening into processing rooms shall open outward and be constructed of metal or the bottom edge shall be flashed and edged with sheet metal to a height of six inches. All doors and windows shall be kept clean and in good repair. Outside conveyor openings and other special-type outside openings shall be effectively protected at all times against the entrance of flies and rodents by the use of doors, screens, flaps, fans, or tunnels.

(b) *Walls, ceilings, partitions and posts.* The walls, ceilings, partitions, and posts of rooms in which milk or milk products are processed, packaged, or handled, or in which utensils are washed and stored, shall be finished in suitable light color with smooth washable concrete, tile, cement-plaster, or other easily cleaned material which is substantially impervious to moisture. They shall be kept clean and refinished as often as necessary to maintain them in good repair.

(c) *Floors.* The floors of all rooms in which milk and milk products are processed or packaged or in which utensils are washed shall be constructed of concrete, or of tile laid closely together with impervious joint material, or of other equally impervious and easily cleaned material. They shall be smooth, kept in good repair, sloped so that there will be no pools of standing water after flushing and the drains shall be equipped with traps properly constructed and kept in good repair to avoid foul odors therefrom. The plumbing shall be so installed as to prevent any back-up of sewage into drain line and to floor of plant.

(d) *Lighting and ventilation.* There shall be ample light, natural or artificial or both, of good quality and well distributed, and adequate ventilation for all rooms and compartments to permit maintenance of sanitary conditions. All rooms where milk or milk products are processed, packaged, or handled, or where utensils and/or equipment are washed should have at least 10 to 30 foot-candles of light intensity on all working surfaces; at least 30 to 50 foot-candles of light intensity in areas where dairy products are examined for condition and quality and at least 5 foot-candles of light in all other rooms, when measured from a distance of 30 inches above the floor. Light bulbs and fluorescent tubage shall be protected against breakage where necessary. All rooms shall be adequately ventilated to minimize or eliminate objectionable odors and moisture condensation. Exhaust fans, vents, and hoods shall be provided to supplement windows and doors where and when needed.

(e) *Rooms and compartments.* Each room and each compartment in which any raw material, packaging and ingredient supplies, or finished products are handled, processed, or stored shall be so designed and constructed as to assure processing and operating conditions of a clean and orderly character, free from objectionable odors and vapors, and maintained accordingly. Rooms for receiving milk and cream should be separated from processing rooms. Each cold storage room shall possess sufficient and proper refrigeration to adequately protect the quality and condition of the products stored.

(1) *Coolers and freezers.* The coolers and freezers shall be of adequate size and equipped with facilities for proper temperature and humidity conditions consistent with the most desirable commercial practices for the applicable product. Coolers and freezers shall be kept clean, dry, orderly, free from insects, rodents, and mold and maintained in good repair. They shall be adequately lighted and proper circulation of air shall be maintained at all times. The floors, walls, and ceilings shall be constructed of impervious material to permit thorough cleaning.

(2) *Cheddar cheese drying room.* The cheddar cheese drying room shall be sufficiently large to permit holding of cheese prior to waxing for sufficient time to provide a smooth thoroughly dry surface—generally 48 to 72 hours is required. The drying room shall be kept clean and free from mold and shall be equipped with facilities for proper air circulation, control of temperature and relative humidity. There shall be ample shelving, properly spaced, and the shelves so constructed to permit easy cleaning. The shelves shall be kept clean and dry.

(3) *Dry storage (product)* The storage rooms for the dry storage of product shall be adequate in size, kept clean, dry, orderly, free from insects and mold and maintained in good repair. They shall be adequately lighted and ventilated. Control of humidity and temperature shall be maintained at all times consistent with good commercial practices which will not impair the quality of the finished product.

(4) *Supply room.* The supply rooms used for the purpose of storing packaging materials, containers, and miscellaneous ingredients shall be kept clean, dry, orderly, free from insects, rodents and mold, and maintained in good repair. Such items stored therein shall be adequately protected from dust, dirt, or other extraneous matter and so arranged as to permit cleaning, inspection, and spraying. The rooms shall be adequately lighted and ventilated.

(5) *Boiler compressor and tool rooms.* The boiler and tool rooms shall be separated from other rooms where milk and milk products are processed, manufactured, packaged, handled, or stored. The rooms shall be adequately lighted and ventilated. Ammonia compressors should be so located as to prevent any ammonia leakage from damaging milk or milk products.

(6) *Toilet and dressing rooms.* Adequate toilet and dressing room facilities

shall be conveniently located but shall not open directly into any room in which milk, milk products, or ingredients are processed, packaged or stored. The toilet rooms shall be well lighted and ventilated by openings to the outer air. The toilet rooms and fixtures shall be kept clean and in good repair. The doors of all toilet rooms shall be self-closing. All employees shall be furnished with a locker or other suitable facility and the dressing rooms shall be kept clean and orderly. A durable, legible sign or signs shall be posted conspicuously in each toilet or dressing room directing employees to wash their hands before returning to work.

(7) *Grading room.* A separate grading room or designated area shall be provided for the inspection and grading of finished products. The grading room or area shall be suitably located, sufficient in size, well lighted, ventilated and the temperature range should preferably be between 60 and 80° F and shall not be below 50° F. It shall be kept clean and dry, free from foreign odors and reasonably free from disturbing elements which would interfere with proper concentration by the grader. The grading room or area shall be equipped with a table or desk and facilities for washing hands.

(8) *Inspector's office.* An office shall be provided for official purposes. The room shall be conveniently located, adequate in size, and equipped with desk, storage supply cabinet, and clothes locker. It shall be well lighted, ventilated, heated, and custodial service furnished.

(9) *Laboratory.* (i) An adequate laboratory shall be maintained and properly staffed with trained and qualified personnel for control and analytical purposes. It shall be located reasonably close to the processing activity in a well-lighted and ventilated room of sufficient size to permit proper performance of the tests necessary in evaluating the raw and finished products. An approved central control laboratory serving several plants will be acceptable if conveniently located and samples and results of tests can be transmitted without undue delay.

(ii) Adequate equipment and facilities shall be provided for performing the required tests as determined by the nature and variety of dairy products processed. If the laboratory is to qualify as an "approved laboratory" it shall meet the requirements as set forth in § 58.101.

§ 58.129 *Facilities—(a) Water supply.* (1) There shall be an ample supply of both hot and cold water; and the water shall be of safe and sanitary quality with adequate facilities for its proper distribution throughout the plant and protection against contamination and pollution. Bacteriological examination should be made of the water supply at least twice a year, or as often as necessary, to determine purity and suitability for use in processing or manufacturing of dairy products. Such tests shall be made by a USDA or State agency laboratory or other approved laboratory and the results shall be kept on file at the plant for examination by the inspector.

(2) The location, construction and operation of the well shall comply with applicable local or State regulations.

(b) *Drinking-water facilities.* Drinking-water facilities of a sanitary type shall be provided in the plant and so located as to be convenient for employee use.

(c) *Hand-washing facilities.* Convenient hand-washing facilities shall be provided, including hot and cold running water, soap, or other detergents, and approved sanitary towels. Such accommodations shall be located in or adjacent to toilet and dressing rooms and also at such other places in the plant as may be essential to the cleanliness of all personnel handling products. Self-closing metal containers shall be provided for used towels and other wastes. Vats for washing equipment shall not be deemed satisfactory as hand-washing facilities for personnel.

(d) *Disposal of wastes.* Dairy waste shall be properly disposed of from the plant and premises. The sewage system shall have sufficient slope and capacity to readily remove all waste from the various processing operations. Containers used for the collection and holding of wastes, in the processing rooms, shall be kept covered or be of the self-closing type. Outside trash containers shall be constructed of metal and kept covered with tight-fitting lids and placed on a concrete slab or on a rack which is at least 12 inches above the ground. Solid wastes shall be disposed of daily and the containers cleaned before re-use.

§ 58.132 *Equipment and utensils—*

(a) *Construction, repair and installation of equipment and utensils.* The equipment and utensils, including sanitary pumps, piping, fittings and connections, coming in contact with raw material and product shall be made of stainless steel. Other non-corrosive material which will not adversely affect the product also may be approved. Churns of wood construction may be temporarily approved if the wood is in sound condition. All equipment, utensils and piping shall be installed so as to be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. The equipment, where applicable, should be set out approximately 24 inches from any wall and spaced approximately 24 inches between pieces of equipment which measure more than 48 inches on the parallel sides. Cleaned-in-place sanitary piping properly constructed of suitable material and properly installed will be acceptable.

(b) *New equipment and replacements.* New equipment and replacements where applicable shall meet the 3A Standards formulated by the International Association of Milk and Food Sanitarians, United States Public Health Service, and the Dairy Industry Committee. If 3A specifications are not available, such equipment and replacements shall be approved by the Administrator.

(c) *Contract specifications.* Where contract specifications specifically require stainless steel equipment and utensils in the processing, manufacturing or repackaging of any dairy product such

specifications shall take precedence and govern the operation.

(d) *High temperature short time pasteurizers.* An approved automatic flow diversion valve and holding tube or its equivalent, if not a part of the existing equipment, should be installed on all HTST pasteurization equipment, including vacuum type pasteurizers, to assure complete pasteurization. When vacuum type pasteurizers are used the steam shall be conducted through a steam strainer and a steam purifier equipped with a steam trap. Such pasteurizing facilities shall yield a negative phosphatase test on milk or cream.

(e) *Thermometers and recorders—*

(i) *Indicating thermometers.* (i) Long stem indicating thermometers which are accurate within 0.5° F. plus or minus for the applicable temperature range shall be provided for the purpose of checking temperatures of pasteurization and/or cooling of products in vats and for checking the accuracy of recording thermometers.

(ii) Short stem indicating thermometers which are accurate within 0.5° F. plus or minus for the applicable temperature range shall be installed in the proper stationary position in all HTST pasteurizers and all storage tanks where temperature readings are required.

(iii) Air-space indicating thermometers, where applicable, which are accurate within 1.0° F. plus or minus for the proper temperature range shall also be installed above the surface of the products pasteurized in vats, to make certain that the temperature of the foam and/or air above the products pasteurized also received the required minimum temperature treatment.

(2) *Recording thermometers.* Recording thermometers which are accurate within 1.0° F. plus or minus (2.0° F. at high temperatures) for the applicable temperature range shall be used on all vats or HTST equipment used for pasteurizing any milk or milk products to record the temperature and time held. Other recorders may be necessary where a record of temperature or time of cooling and holding is of significant importance. For more detailed specifications as to type, accuracy of installation of thermometers or recorders, the specifications as outlined by the United States Public Health Service Milk Ordinance and Code shall apply.

(f) *Heavy-duty vacuum cleaner.* Each plant should be equipped with a heavy-duty industrial vacuum cleaner and regular schedules established for thoroughly vacuuming applicable equipment and areas in the plant. The material picked up by vacuum cleaners shall be disposed of promptly.

#### PERSONNEL, CLEANLINESS AND HEALTH

§ 58.135 *Cleanliness.* All employees shall wash their hands before beginning work and upon returning to work: after using toilet facilities, eating, smoking, or otherwise soiling their hands. They shall keep their hands clean and follow good, hygienic practices while on duty. Expectoration or use of tobacco in any form, shall be prohibited in each room and each compartment, including the grading room or area, where any unpacked or exposed dairy products are

prepared, processed, or otherwise handled. Clean, white, or light-colored washable outer garments, and caps (paper caps or hair nets acceptable) shall be worn by all persons engaged in receiving, testing, processing, or packaging any dairy products.

§ 58.136 *Health.* No person afflicted with any communicable disease (including, but not being limited to, tuberculosis) shall be permitted in any room or compartment where dairy products are prepared, processed, or otherwise handled. No person who has a discharging or infected wound, sore, or lesion on hands, arms, or other exposed portions of the body, shall work in any dairy processing rooms, or in any capacity resulting in contact with dairy products. All plant employees shall have a medical and physical examination by a registered physician or by the local department of health and each new employee should be examined and furnish a satisfactory medical certificate prior to starting work. Thereafter, every employee whose work brings him in contact with the processing or handling of milk, milk products, containers, or equipment should have a medical and physical examination at least once each 24 months. Employees returning to work following illness from communicable diseases shall have a certification from the attending physician to establish proof of complete recovery. A medical certificate for each employee should be on file at the plant office.

#### SPECIFICATIONS FOR RAW MILK AND PASTEURIZED CREAM

§ 58.142 *Transportation and protection of raw material while in transit—*

(a) *Milk and cream cans.* The milk and cream cans used in transporting milk or cream from farm to plant shall be of such construction as to be easily cleaned and kept in good repair. Covers providing adequate protection to the product shall be used. Inspection, repair, or replacement of cans and lids shall be adequate to substantially eliminate the use of cans and lids showing open seams, cracks, rust condition, milkstone or any unsanitary condition.

(b) *Bulk farm tanks.* All bulk farm tanks shall meet 3A Standards for construction at the time of installation and shall be installed in accordance with all local and state regulations. The tanks shall be designed and equipped with refrigeration so as to permit the cooling of the milk to 40° F or lower within two hours and maintained below 45° F until picked up. The milk shall be transferred from tank to truck through stainless steel piping or approved hose under sanitary conditions which will not detract from the established quality of the milk in the tank.

(c) *Transporting raw material.* All vehicles used for the transportation of raw material shall be constructed and operated to protect the product from extreme temperatures, dust, or other adverse conditions. Facilities shall be provided for adequate washing and sanitizing of tanks, piping, and accessories, at central locations, or at all plants receiving or shipping milk or milk products in tanks.

§ 58.143 *Specifications for raw milk.* The inspection of the raw milk for manufacturing or processing into dairy products under this part shall be based on the organoleptic examination and quality control tests for sediment content and bacterial estimate, as set forth in paragraphs (a) (b) and (c) of this section, at such time and place as is applicable for the tests performed.

(a) *Organoleptic examination.* All raw milk delivered at the approved plant shall be identified as to the producer, seller, or shipper from whom received. Each can or farm tank of milk shall be examined for physical characteristics, off-flavors, or off-odors, including those associated with developed acidity. The quality of the raw milk shall be wholesome and characteristic of normal milk: The flavor and odor of the raw milk shall be fresh and sweet and practically free from off-flavors or off-odors; however, normal feed flavors may be present. Any raw milk that shows an abnormal condition (including, but not being limited to curdled, ropy, clotted, bloody, or contains extraneous matter) or which shows significant bacterial deterioration shall be rejected to the producer, seller, or shipper and shall not be used in the processing or manufacturing of dairy products.

(b) *Sediment content classification.* (1) For the purpose of quality control and establishing a rejection level of the milk to the producer the following classifications of the milk for sediment content shall be applicable:

- Sediment (off-the-bottom method)  
 Class 1—USDA Sediment Standard (not to exceed) 0.50 mg.  
 Class 2—USDA Sediment Standard (not to exceed) 1.00 mg.  
 Class 3—USDA Sediment Standard (not to exceed) 2.50 mg.

(2) At least twice each month, at irregular intervals, one can of milk from each producer shall be selected at random and tested for sediment content by the "off-the-bottom" method of sediment testing as set forth in the latest edition of "Standard Methods for the Examination of Dairy Products" published by the American Public Health Association, 1790 Broadway, New York, New York. If the sediment disc on the can of milk selected at random is classified Class 3 (2.50 mg.) or more, as determined on the basis of the United States Sediment Standards for Milk and Milk Products (Part 43 of this title) all cans of milk in the shipment shall be tested for sediment content. In the case of milk held in bulk farm tanks a representative sample shall be taken by an acceptable and approved method for sediment testing, which will yield results comparable to the "off-the-bottom" method of sediment testing for individual cans, and properly classified in accordance with the aforementioned United States Sediment Standards for Milk and Milk Products.

(c) *Bacterial estimate classification.* (1) For the purpose of quality improvement and establishing a quality pattern for producers the following classification of the milk for bacterial estimate shall be applicable:

Bacterial estimate classification	Direct microscopic (clump) count	Methylene blue test, mixed sample not decolorized in—	Resazurin test, no color change beyond color represented by—
Class 1.....	200,000 per milliliter.....	5½ hours.....	P-7/4 in 2¾ hours.
Class 2.....	3,000,000 per milliliter.....	2½ hours.....	P-7/4 in 1¾ hours.
Class 3.....	10,000,000 per milliliter.....	1 hour.....	P-7/4 in ¾ hour.

(2) At least twice each month a bacterial estimate shall be made on a mixed sample of each producer's milk by the methylene blue test, the resazurin test, the direct microscopic (clump) count of its equivalent as set forth in the latest edition of "Standard Methods for the Examination of Dairy Products," published by the American Public Health Association, 1790 Broadway, New York, New York.

(3) Weekly rechecks should be made on Class 3 milk until the milk has improved to Class 2 or better.

(d) *Acceptable milk.* Milk acceptable pursuant to the requirements of paragraph (a) of this section for organoleptic examination and complying with Class 1 or Class 2 for sediment content may be used in the processing or manufacturing of dairy products. For stabilized (sterilized) whole milk to be officially identified with USDA inspection legend the bacterial estimate of the raw milk shall not exceed 500,000 per ml. by the direct microscopic clump count or its equivalent, and the sediment shall not exceed Class 2, applicable to the individual producer's milk. For stabilized (sterilized) whole milk not bearing the USDA inspection legend, the bacterial estimate of the raw milk from individual producers, and sediment, shall be in accordance with either Federal or Military specifications and/or other purchase contract requirements, whichever is applicable.

(e) *Probationary milk.* Milk acceptable pursuant to the requirements of paragraph (a) of this section for organoleptic examination but classified as Class 3 for sediment content may be used in processing or manufacturing of dairy products for a period of 10 days with respect to sediment content. When any producer's milk is classified as probationary for sediment or Class 3 or more for bacterial estimate a plant representative shall visit the farm and assist the producer in correcting the unsatisfactory condition. If the quality of the milk, as determined by further testing of each can of a producer's milk for sediment content, has not improved within the probationary period to Class 2, or better, the plant shall reject the milk to the producer.

(f) *Rejected milk.* The milk from a producer who has failed to improve the quality of his milk during the probationary period so as to meet Class 2, or better, for sediment, shall be rejected milk. Any further acceptance of milk from such a producer shall be on the basis of testing each shipment for sediment content prior to acceptance to determine if the milk is Class 2, or better. When three consecutive shipments within the next 5 days indicate milk of Class 2, or better, the milk from this producer may again be accepted, subject to regular periodic testing and quality control measures. If within five days

three consecutive shipments fail to meet the requirements of Class 2, for sediment, the milk from this producer shall again be classified as reject milk and the plant shall not accept milk from this producer until a representative of the plant again visits the farm and has determined that the unsatisfactory condition has been corrected.

(g) *Unacceptable milk.* The plant shall reject to the producer all milk that fails to meet the requirements of paragraph (a) of this section for organoleptic examination and/or is lower in quality than Class 3 for sediment on any single shipment.

(h) *Field service.* A representative of the plant should arrange to visit promptly each producer involved in the production of probational or rejected milk for the purpose of inspecting the equipment, utensils, and facilities at the farm and to offer constructive assistance for improvement in the quality of the milk. A representative of the plant should visit each producer as often as is practicable to assist in and encourage the production of high quality milk.

(i) *Bulk milk.* Bulk milk in storage tanks within the processing plant or receiving station shall be maintained at a temperature of 45° F or lower until processed. Quality checks for bacterial estimate and flavor shall be made daily to make certain that the quality of the milk in the tanks is consistent with the milk received from the producers as shown by plant records.

(j) *Records.* Accurate plant records, listing the results of quality tests made on raw milk, shall be maintained on each producer's milk. Each producer shipping probational or reject milk shall be informed immediately of the results of such quality tests. Producers shipping Class 1 and Class 2 milk should receive such information at the time of regular remittances. Records shall also be maintained on each bulk milk lot. Such records shall be available for examination by the inspector and kept on file for at least one year.

§ 58.144 *Specifications for farm-separated cream.* The inspection of the farm-separated cream to be used for manufacturing or processing into dairy products under this part shall be based on the organoleptic examination and quality control tests to determine sediment content of each individual producer's cream at the time of delivery thereof at the receiving plant or substation.

(a) *Organoleptic examination.* All cream received at the approved plant, receiving plant, or substation shall be identified as to the producer, seller, or shipper from whom received. Each can of cream in each shipment shall be examined for physical characteristics, off-flavors and off-odors, including those

associated with developed acidity. The condition of the cream shall be wholesome and characteristic of normal cream. The organoleptic examination and segregation of the cream, which is used in the manufacturing or processing into butter, shall be consistent with the applicable flavor classification of butter set forth in the U. S. Standards for Grades of Butter (Part 63 of this title) Any cream having pronounced or offensive off-flavors or off-odors, or which is in an abnormal condition (including, but not being limited to surface mold, foamy, yeasty, fruity, or containing extraneous matter) or which is otherwise unwholesome, shall be rejected to the producer, seller, or shipper and shall not be used in the processing or manufacturing of dairy products.

(b) *Sediment content classification.* (1) For the purpose of quality control and establishing a rejection level of cream to the producer, seller, or shipper, the following classifications of cream for sediment shall be applicable:

- Sediment (off-the-bottom method)*  
 Class 1—USDA Sediment Standard (not to exceed) 0.50 mg.  
 Class 2—USDA Sediment Standard (not to exceed) 1.00 mg.  
 Class 3—USDA Sediment Standard (not to exceed) 2.50 mg.
- Sediment (mixed-can method)*  
 Class 1—USDA Sediment Standard (not to exceed) 0.20 mg.  
 Class 2—USDA Sediment Standard (not to exceed) 0.30 mg.  
 Class 3—USDA Sediment Standard (not to exceed) 1.00 mg.

(2) At least twice each month one can of cream from each producer, seller, or shipper of farm separated cream shall be selected at random and tested by using the "off-the-bottom" method or the "mixed-can" method in accordance with acceptable and approved procedures.

(3) As a supplement to the regular sediment testing procedure it is recommended that whole-can filtering facilities be utilized for each can of each shipment of cream from the producer for coarse sediment or extraneous matter and rejections be made in accordance with State or Federal Food and Drug Administration practices.

(c) *Acceptable cream.* Cream acceptable pursuant to the requirements of paragraph (a) of this section for organoleptic examination and complying with Class 1 or Class 2 for sediment content may be used in the processing or manufacturing of dairy products.

(d) *Probationary cream.* Cream acceptable pursuant to the requirements of paragraph (a) of this section for organoleptic examination but classified Class 3 for sediment content may be accepted for processing in an approved plant for three successive deliveries. Thereafter each successive delivery shall be tested for sediment content prior to acceptance. If the sediment content is in excess of Class 2, such cream shall be rejected to the producer, seller, or shipper, and successive deliveries shall continue to be rejected until the sediment content is Class 2, or better. As soon as any shipment of cream is classified as probationary a representative

of the plant, receiving plant, or substation should contact the producer, seller, or shipper involved in the production of probationary cream and, if necessary, arrange to inspect the equipment, utensils, and facilities at the farm, receiving plant, or substation and to offer constructive assistance for improvement in the quality of the cream.

(e) *Rejected cream.* (1) The cream from a producer, seller, or shipper who has failed to improve the quality of his cream during the probationary period so as to meet the requirements of Class 2, or better, for sediment shall be rejected cream. Any further acceptance of cream from such a producer, seller, or shipper shall be on the basis of testing each shipment for sediment content, prior to acceptance to determine if the cream is Class 2, or better. If all cans of cream of the subsequent shipment meet Class 2, or better, such cream shall be classified as probationary cream. When three successive shipments indicate cream of Class 2, or better, the cream may again be accepted, subject to regular periodic testing and quality control measures.

(2) If the initial new shipment fails to meet the requirements of Class 2 cream, or better, the plant shall not accept such cream until a representative of the plant again contacts the producer, seller, or shipper for the purpose of offering constructive assistance in correcting the unsatisfactory condition.

(f) *Field service.* A representative of the plant should arrange to contact promptly each producer, seller, or shipper involved in the production of probationary or reject cream for the purpose of offering constructive assistance for the improvement in the quality of the cream. If necessary, he should arrange to inspect the equipment, utensils, and facilities at the farm, receiving plant, or substation. A representative of the plant should visit each producer, seller, or shipper as often as is practicable to assist in and encourage the production of high quality cream.

(g) *Records.* Accurate plant records listing the results of quality tests made on raw cream shall be maintained on cream from each producer, seller, or shipper. Each producer, seller, or shipper, shipping probationary or rejected cream, shall be informed immediately of the results of such quality tests. Producers, sellers, or shippers, shipping Class 1 and Class 2 cream should receive such information at the time of regular remittances. Such records shall be available for examination by the inspector and kept on file for at least one year.

§ 58.147 *Alternate quality program.* When a processor has in operation an acceptable quality program, at the producer level, which is approved by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, as being effective in obtaining results comparable to or higher than the quality program as outlined above for milk or cream, then such a program may be accepted in lieu of the program herein prescribed.

#### OPERATIONS AND OPERATING PROCEDURES

§ 58.150 *Clean and sanitary methods.* All operations in receiving, transporting, segregating, holding, processing, packaging, and storing of dairy products shall be strictly in accordance with clean and sanitary methods and shall be conducted rapidly, and consistent with best commercial practices.

§ 58.151 *Segregation of raw material.* The milk and cream received at an approved plant shall meet the quality specifications as listed under §§ 58.143 and 58.144. The milk and cream received at an approved plant should be segregated and processed separately in such a manner that the finished dairy product will fully meet the requirements of a particular U. S. Grade or other specification, whichever is applicable.

§ 58.152 *Raw material deterioration.* Raw materials shall be held under conditions and at temperatures that will retard any material increase in bacterial content to avoid any deterioration or contamination of such products.

§ 58.153 *Milk or cream storage.* Incoming milk or cream shall be handled in such a manner to minimize bacterial increase during the receipt of the milk or cream and during the holding period prior to processing.

§ 58.154 *Pasteurization.* Pasteurization of the raw material shall be accomplished at the plant where the milk or cream is processed.

(a) *Cream for butter making.* The pasteurization of cream for butter making shall be at a temperature of not less than 165° F. for at least 30 minutes for the holding method, or not less than 185° F. for at least 15 seconds for the flash method, or any other temperature and holding time which will assure adequate pasteurization and comparable keeping-quality characteristics. If vat or holding method is used vat covers are to be closed prior to holding period to assure temperature of air space reaching the minimum temperature before holding time starts.

(b) *Milk for cheese making.* Pasteurization of milk for cheese making shall be at a temperature of at least 161° F. for 15 seconds in approved and properly operating equipment. Comparable temperatures and holding times may be used which will produce a negative phosphate test.

(c) *Other dairy products.* Pasteurization of milk or cream for other dairy products shall be at such temperatures and at holding periods as will assure proper pasteurization and sufficient to assure adequate keeping-quality and consistent with the most desirable quality of the finished product.

§ 58.159 *Product contamination.* All necessary precautions shall be taken to prevent the contamination of any dairy product.

§ 58.160 *Checking quality.* All dairy products shall be subject to inspection for quality and condition throughout each processing operation in addition to the regular routine analysis made on the

raw and finished products in the laboratory to determine quality and/or composition.

§ 58.161 *Wholesomeness.* All substances and ingredients used in the processing or manufacturing of any dairy product shall be subject to inspection and shall be wholesome and practically free from impurities.

§ 58.162 *Product stability.* The methods and procedures employed in the receiving, segregating, and processing of raw materials in a plant and the storing of the finished product shall be in accordance with best commercial practices and adequate to result in a satisfactory and stable product.

§ 58.168 *Cleaning and bactericidal treatment of equipment and utensils.* The equipment, sanitary piping, and utensils used in the receiving, processing, packaging and handling of milk and milk products shall be maintained in a sanitary condition. The equipment, except that which is effectively cleaned-in-place, shall be disassembled daily for thorough cleaning. A dairy cleanser, detergent, wetting agent or sanitizing agent, or other similar materials may be used as will not contaminate or deleteriously affect the product. Steel wool or metal sponges shall not be used in the cleaning of any dairy equipment or utensils. Such equipment and utensils shall be subjected to an acceptable bactericidal or sanitizing process. After reassembly and prior to use all equipment coming in contact with milk or milk products shall be subjected to an acceptable bactericidal or sanitizing process. Utensils and portable equipment used in processing operations shall be stored above the floor in clean, dry locations, and in a self-draining position on racks constructed of impervious, corrosion-resistant material. The milk or cream cans shall be cleaned, sanitized, and dried before returning to the producers. Can washers shall be maintained in a clean and satisfactory operating condition. Truck-tanks, sanitary piping, connections, and pumps shall be cleaned and sanitized at least once each day and more frequently as required. The outside of the truck-tanks shall be maintained in a clean and satisfactory condition.

§ 58.169 *Plant records.* Adequate plant records shall be maintained of all tests and analyses made in the laboratory or throughout the plant during processing, on all raw material and finished products. Such records shall be available for examination at any time by the inspector and kept on file for at least one year.

#### PACKAGING AND GENERAL IDENTIFICATION

§ 58.175 *Containers.* (a) Packages or containers used for the packing of approved dairy products shall be any commercially accepted container or packaging material which will satisfactorily protect the contents through the regular channels of trade, without significant impairment of quality with respect to flavor, contamination or moisture content under the normal conditions of handling.

(b) Due to the importance of proper treatment of parchment liners in bulk butter packages for protection against mold and other possible deterioration, the liners shall be treated as follows: The liners shall be completely immersed in a salt solution in a suitable non-corrosive container and held therein at the boiling point for not less than 30 minutes and held in this solution until used. The solution should consist of at least 15 pounds of salt for every 100 pounds of water and shall be changed each day. The lined butter boxes shall be inverted until ready for use to afford protection from possible contamination.

§ 58.176 *Packaging and repackaging.* Packaging shall be performed at the place and time of manufacture. In case of cheddar cheese, paraffining may be at factory or assembling warehouse. When officially graded bulk product is to be repackaged into consumer type packages for official grade labeling or other official identification a supervisor of packaging shall be required and the plant, equipment, facilities, and personnel shall meet the same specifications as outlined in this part, including such markings or identification as may be required.

§ 58.177 *General identification.* All commercial bulk packages containing dairy products manufactured under the provisions of this part shall be adequately and legibly marked with the name of the product, net weight, name and address of processor or manufacturer or other assigned plant identification, lot number, and any other identification as may be required. Consumer packaged product shall be legibly marked with the name of the product, net weight, name and address of packer or distributor and such other official identification as may be required.

#### STORAGE OF FINISHED PRODUCT

§ 58.182 *Dry storage.* The product shall be stored or so arranged in aisles, rows, or sections and lots or in such a manner as to be orderly, easily accessible for inspection or for cleaning of room. It is recommended that dunnage or pallets be used when practical. Care shall be taken in the storage of any other product foreign to dairy products in the same room, in order to prevent impairment or damage to the product from absorbed odors or vermin or insect infestation. Control of humidity and temperature shall be maintained at all times consistent with good commercial practices.

§ 58.183 *Refrigerated storage.* The finished product shall be placed on dunnage or palletized and properly identified. It shall be stored under temperatures that will best maintain the initial quality. The product shall not be exposed to anything from which it might absorb any foreign odors or be contaminated from druppings or condensation.

#### INSPECTION, GRADING AND OFFICIAL IDENTIFICATION

§ 58.187 *Grading.* All dairy products which have been processed or manufactured in an approved plant shall be

graded by the grader in accordance with established official U. S. Standards for Grades. Laboratory analysis, when required in determining the final grade, shall be conducted only in an approved laboratory.

§ 58.188 *Inspection.* All dairy products, which have been processed or manufactured in an approved plant, for which there are no official U. S. Standards for Grades, shall be inspected for quality by the inspector in accordance with contract requirements or specifications established by the U. S. Department of Agriculture or other Federal agency, including laboratory analysis when necessary.

§ 58.189 *Official identification.* (a) Only dairy products received, processed, or manufactured in accordance with the specifications contained in this subpart and inspected and/or graded in accordance with the provisions of this part may be identified with official identification.

(b) Sketches, proofs, or photostatic copies of all proposed packaging materials, grade labels, and inspection marks to be used as official identification shall be submitted to the Chief of the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington, D. C., for tentative approval prior to acquisition of a supply of material bearing such identification.

(c) Finished copies, in quadruplicate, of the tentatively approved packaging materials, grade labels, and inspection marks shall be transmitted to the Chief of the Inspection and Grading Branch for final approval prior to their use as official identification.

§ 58.190 *Local or State regulations and specifications.* (a) Local or State regulations or specifications where applicable to the plant, equipment, raw material, product ingredients, facilities, sanitation or dairy products, which are higher than those specified in this subpart, shall be applicable.

(b) Local or State health requirements when higher than those specified in this subpart shall be applicable.

§ 58.195 *Explanation of terms—*(a) *Fresh and sweet.* Free from "old milk" flavor and odor of developed acidity or other off-flavors or off-odors.

(b) *Normal feed.* Regional feed flavors, such as alfalfa, clover, silage, or similar feeds or grasses (weed flavors, such as peppergrass, French weed, onion, garlic, or other obnoxious weeds, excluded)

(c) *Off-flavors or off-odors.* Flavors or odors, such as utensil, bitter, barny, or other associated defects when present to a degree readily detectable.

(d) *Developed acidity.* An apparent increase from the normal acidity of the milk to a degree of flavor and odor which is detectable.

(e) *Extraneous matter.* Foreign substances, such as filth, hair, insects and fragments thereof, and materials, such as metal, fiber, wood, and glass.

(f) *Sediment.* Fine particles of material other than the foreign substances

and materials defined in paragraph (e) of this section.

(g) *Normal cream.* Wholesome cream free from pronounced or offensive off-flavors or off-odors or abnormal conditions, such as mold, extraneous matter, or excessive sediment.

(h) *Pronounced off-flavors and off-odors.* Flavors and odors, such as stale, metallic, yeasty, and fruity.

(i) *Offensive off-flavors or off-odors.* Flavors and odors, such as chemical, oily, rancid, obnoxious weeds (peppergrass, French weed, onion, and garlic)

Done at Washington, D. C., this 3th day of November 1955.

[SEAL] FRANK E. BLOOD,  
Acting Deputy Administrator  
Agricultural Marketing Service.

[F. R. Doc. 55-9134; Filed, Nov. 10, 1955;  
8:48 a. m.]

## Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 60]

### PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### LIMITATION OF HANDLING

§ 914.360 *Navel Orange Regulation 60*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914; 19 F. R. 2941) regulating the handling of navel oranges grown in Arizona and designated part of California, effective September 22, 1953, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Navel Orange Administrative Committee held an open meeting on November 9, 1955, after giving due notice thereof, to consider supply and market conditions for navel oranges

and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) The quantity of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., November 13, 1955, and ending at 12:01 a. m., P. s. t., November 20, 1955, is hereby fixed as follows:

- (i) District 1: 29,090 cartons;
- (ii) District 2: Unlimited movement;
- (iii) District 3: Unlimited movement;
- (iv) District 4: Unlimited movement.

(2) Navel oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges and which are effective during the period specified herein.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," and "District 4" have the same meaning as when used in said amended marketing agreement and order; and "carton" means the standard one-half orange, grapefruit, or lemon box set forth as standard container number 58 in section 828.83, as amended, of the Agricultural Code of California.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: November 10, 1955.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F. R. Doc. 55-9134; Filed, Nov. 10, 1955;  
11:14 a. m.]

### PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

§ 953.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of this order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and af-

firmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900; 19 F. R. 57) a public hearing was held at Los Angeles, California, on April 13, 1955, upon proposed amendments to Marketing Agreement No. 94, as amended, and Order No. 53, as amended (7 CFR Part 953) <sup>1</sup> regulating the handling of lemons grown in California and Arizona. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act, including the establishment and maintenance of such orderly marketing conditions for lemons grown in the States of California and Arizona as will provide, in the interests of producers and consumers, an orderly flow thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices;

(2) The said order, as amended, and as hereby further amended, regulates the handling of lemons grown in the States of California and Arizona in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The said order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of such production area would not effectively carry out the declared policy of the act; and

(4) The said order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of the lemons covered thereby.

(b) *Determinations.* It is hereby determined that:

(1) The "Agreement Amending the Marketing Agreement, as Amended, Regulating the Handling of Lemons Grown in California and Arizona," upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the lemons covered by this order) who, during the period November 1, 1953, through October 31,

<sup>1</sup>The compilation of Order No. 53, as amended, appears in 20 F. R. 2313

1954, shipped not less than 80 percent of the volume of lemons covered by said order, as amended, and hereby further amended;

(2) The issuance of this order, amending the aforesaid order, as amended, is favored, or approved, by at least three-fourths of the producers who, during the determined representative period (November 1, 1953, through October 31, 1954) were engaged within the production area specified in said order, as amended, in the production of lemons for market; and

(3) The issuance of this order, amending the aforesaid order as amended, is favored or approved by producers who, during the aforesaid representative period, produced for market at least two-thirds of the volume of lemons produced within California and Arizona for market.

*It is, therefore, ordered,* That, on and after the effective date hereof, all handling of lemons grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

1. Delete the provisions of § 953.2 Act and insert, in lieu thereof, the following:

§ 953.2 Act. "Act" means Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047)

2. Insert the following new sentence immediately preceding the last sentence of § 953.52 *Issuance of regulations*: "Such regulation may be made effective, as authorized by the act, irrespective of whether the season average price for lemons is in excess of the parity price specified therefor in the act."

3. Delete the word "two" wherever it appears in paragraph (h) of § 953.22 *Nominations* and insert, in lieu thereof, the word "one"

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Done at Washington, D. C., this 7th day of November 1955, to become effective December 15, 1955.

[SEAL] TRUE D. MORSE,  
*Acting Secretary.*

[F. R. Doc. 55-9118; Filed, Nov. 10, 1955; 8:45 a. m.]

[Lemon Reg. 615]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATIONS OF SHIPMENTS

§ 953.722 *Lemon Regulation 615*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 20 F. R. 2913) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C.

601 et seq.) and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on November 9, 1955, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., November 13, 1955, and ending at 12:01 a. m., P. s. t., November 20, 1955, is hereby fixed as follows:

- (i) District 1. Unlimited movement;
- (ii) District 2: 162,750 cartons;
- (iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," and "District 3" shall have the same meaning as when used in the said amended marketing agreement and order; and "carton" shall mean a container having a capacity equal to one-half the standard lemon box described in said amended marketing agreement and order as having inside dimensions 10 inches in depth, 13 inches in width, and 25% inches in length.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: November 9, 1955.

[SEAL] S. R. SMITH,  
*Director Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.*

[F. R. Doc. 55-9161; Filed, Nov. 10, 1955; 8:55 a. m.]

PART 959—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

APPROVAL OF EXPENSES AND RATE OF ASSESSMENT

Notice of rule making regarding proposed expenses and rate of assessment, to be made effective under Marketing Agreement No. 114, as amended, and Order No. 59, as amended (7 CFR Part 959; 20 F. R. 7068) regulating the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon except Malheur County, was published in the FEDERAL REGISTER October 15, 1955 (20 F. R. 7795) This regulatory program is effective under The Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, which proposals were adopted and submitted for approval by the Oregon-California Potato Committee, established pursuant to said amended marketing agreement and order, it is hereby found and determined that:

§ 959.208 *Expenses and rate of assessment.* (a) The reasonable expenses that are likely to be incurred by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114, as amended, and Order No. 59, as amended, to enable such committee to perform its functions pursuant to the provisions of aforesaid amended marketing agreement and order, during the fiscal period ending June 30, 1956, will amount to \$26,100.

(b) The rate of assessment to be paid by each handler, pursuant to Marketing Agreement No. 114, as amended, and Order No. 59, as amended, shall be one-half of one cent (\$0.005) per hundred-weight of potatoes handled by him as the first handler thereof during said fiscal period.

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and Order No. 59, as amended.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Done at Washington, D. C., this 8th day of November 1955, to become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] F. R. BURKE,  
*Acting Deputy Administrator*

[F. R. Doc. 55-9133; Filed, Nov. 10, 1955; 8:48 a. m.]

**PART 989—HANDLING OF RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA**

**BUDGET OF EXPENSES OF RAISIN ADMINISTRATIVE COMMITTEE AND RATE OF ASSESSMENT FOR 1955-56 CROP YEAR**

Pursuant to Marketing Agreement No. 109, as amended, and Order No. 89, as amended (20 F. R. 6435) regulating the handling of raisins produced from raisin variety grapes grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) a budget of expenses for the Raisin Administrative Committee and a rate of assessment for the 1955-56 crop year were submitted by the said committee for approval by the Secretary.

After consideration of all matters pertaining thereto, including the recommendation of the Raisin Administrative Committee, it is hereby found and determined, and it is therefore ordered, that the budget of expenses for the Raisin Administrative Committee, and the rate of assessment, for the crop year beginning September 1, 1955, shall be as follows:

§ 989.306 *Budget of expenses of the Raisin Administrative Committee and rate of assessment for the 1955-56 crop year—(a) Budget of expenses.* Expenses in the amount of \$70,500 are reasonable and are likely to be incurred by the Raisin Administrative Committee for its maintenance and functioning and for the maintenance and functioning of the Raisin Advisory Board for the crop year beginning September 1, 1955.

(b) *Rate of assessment.* Each handler shall pay to the Raisin Administrative Committee, in accordance with the amended marketing agreement and the amended order, an assessment rate of 47 cents for each ton of free tonnage raisins acquired by him, and for each ton of reserve tonnage raisins sold to him by the committee, during the crop year beginning September 1, 1955, which assessment rate is hereby fixed as each handler's pro rata share of the aforesaid expenses.

It is further found that it is impractical and contrary to the public interest to give preliminary notice, engage in public rule making, and postpone the effective time of the document with respect to the aforesaid budget of expenses and rate of assessment for 30 days, or any lesser period, after publication of it in the FEDERAL REGISTER (see section 4 (c) of the Administrative Procedure Act; 5 U. S. C. 1001 et seq.) because: (1) The rate of assessment hereby fixed is applicable to raisins acquired by handlers during the current crop year as set forth in this section; (2) handlers usually begin to receive deliveries of raisins from producers about September 1 which receipts are, by the terms of the amended marketing agreement and the amended order, subject to the assessments set forth in this section; (3) it is essential that the Raisin Administrative Committee be enabled to obtain assessment funds promptly to defray expenses of administering the program; and (4) compliance with this section will not require any

special preparation on the part of handlers. Therefore, good cause exists to make this order effective upon publication in the FEDERAL REGISTER.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued this 8th day of November 1955, to become effective upon publication in the FEDERAL REGISTER.

[SEAL] F. R. BURKE,  
Acting Deputy Administrator,  
Marketing Services.

[F. R. Doc. 55-9132; Filed, Nov. 10, 1955; 8:48 a. m.]

**PART 1002—MILK IN GREATER WHEELING, W. VA., MARKETING AREA**

**ORDER SUSPENDING CERTAIN PROVISIONS**

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) hereinafter referred to as the "act" and of the order, as amended (7 CFR Part 1002), regulating the handling of milk in the Greater Wheeling, West Virginia, marketing area, hereinafter referred to as the "order", it is hereby found and determined that:

(a) The provision "unless a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except pool plants or nonpool plants) in the Greater Wheeling marketing area than in the marketing area regulated pursuant to such order;" of § 1002.61 (a) will not tend to effectuate the declared policy of the act for the period November 1, 1955, through July 31, 1956. This provision prohibits the determination by the Secretary that a plant regulated under another Federal order shall be considered a nonpool plant under the Greater Wheeling order if a greater volume of Class I milk is disposed of to retail or wholesale outlets in the Greater Wheeling area than in the marketing area pursuant to such other order. This limitation on the discretion of the Secretary to determine that a plant otherwise subject to both the Greater Wheeling and the Cleveland Federal milk orders shall be regulated under the Cleveland order, will jeopardize the interests of producers who have been subject to the Cleveland order and who are establishing eligible milk quotas pursuant to § 975.65 of the Cleveland order, which will determine their share of eligible and ineligible milk payments in subsequent months. The handlers who would become subject to the Greater Wheeling order maintain that plans for additional sales outlets in the Cleveland marketing area will make them eligible, within a few months, for an automatic determination under the Greater Wheeling order that the full regulation of the Cleveland order shall apply to them. If these handlers should extend sales in the Cleveland area so as to become subject to that order in the quota-paying months, the producers who had established bases in the Greater Wheeling order would not be eligible for eligible milk payments under the Cleveland milk order. It is found, therefore, that the

provision of the Greater Wheeling order, which requires a determination that such plants be regulated under the Greater Wheeling order if their Class I sales are greater in such marketing area, be suspended until the end of the periods during which either eligible and ineligible or base and excess payments are made in the Cleveland and Greater Wheeling orders, respectively.

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof, are found to be impracticable, unnecessary, and contrary to the public interest for reasons stated under (a) above and in that:

1. The information upon which this action is based did not become available in time sufficient for such compliance;

2. This suspension order would remove the requirement that the Secretary's determination of which Federal order shall regulate a handler otherwise subject to the Greater Wheeling order and another Federal milk order must be made solely on the basis of the proportion of Class I milk disposed of in the respective markets;

3. This suspension order follows a specific request by those handlers who will be immediately affected thereby. They request that action to keep them subject to the Cleveland order rather than to the Greater Wheeling order be made effective as of November 1, 1955, the effective date of the pricing provisions of the Greater Wheeling order; and

4. This action is necessary to facilitate and maintain the orderly marketing of milk between regulated markets.

It is therefore ordered, That the provision "unless a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except pool plants or nonpool plants) in the Greater Wheeling marketing area than in the marketing area regulated pursuant to such order;" of § 1002.61 (a) be and hereby is suspended during the period November 1, 1955 through July 31, 1955.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 602c)

Done at Washington, D. C., this 7th day of November 1955, to be effective as of November 1, 1955.

[SEAL] TRUE D. MORSE,  
Acting Secretary.

[F. R. Doc. 55-9117; Filed, Nov. 10, 1955; 8:45 a. m.]

**TITLE 16—COMMERCIAL PRACTICES**

**Chapter I—Federal Trade Commission**

[Docket 6303]

**PART 13—DIGEST OF CEASE AND DESIST ORDERS**

**GENERAL PRODUCTS CORP. ET AL.**

Subpart—*Advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; § 13.205 Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 6, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, General

Products Corporation et al., Los Angeles, Calif., Docket 6303, October 29, 1955.]

*In the Matter of General Products Corporation, a corporation, and David Ormont and Alan Mann, Individually and as Officers of said Corporation, and Dean Simmons, an Individual*

This proceeding was heard by Earl J. Kolb, hearing examiner, upon the complaint of the Commission—which charged respondents with the dissemination of false advertisements, including powerful radio broadcasts from Mexico to this country, concerning the therapeutic and health-giving qualities of their "Autry's Minerals" a mineral food supplement—and an agreement between the parties providing for the entry of a consent order in accordance with § 3.25 of the Commission's rules of practice.

Upon this basis, the hearing examiner made his initial decision and order to cease and desist, which by the Commission's order of October 28, 1955, pursuant to § 3.21 of the rules of practice, became, on October 29, 1955, the "Decision of the Commission"

The order to cease and desist is as follows:

*It is ordered*, That the respondent General Products Corporation, a corporation, and its officers, and respondents David Ormont and Alan Mann, individually and as officers of said corporation, and respondent Dean Simmons, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Autry's Minerals, or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or indirectly:

(a) That the use of said preparation is effective in the prevention, treatment or relief of, or will cure aches or pains in the muscles or joints, arthritic or rheumatic pains, sinus trouble, or colds;

(b) That the use of said preparation is effective in preventing any type of nutritional anemia, other than iron deficiency anemia;

(c) That the use of said preparation is effective in preventing tiredness and weariness, unless expressly limited to these conditions when they might result from iron deficiency anemia;

(d) That the use of said preparation is an effective treatment for or will cure any kind of anemia, or is effective in the treatment or relief of or will cure tiredness or weariness;

(e) That the use of said preparation will restore sight to the blind, or is an effective treatment for or will cure ulcer of the cornea, conjunctivitis or glaucoma,

(f) That the use of said preparation is effective in the treatment for or will cure any disease caused by mineral defi-

ciencies, or is effective in the prevention of any disease caused by mineral deficiencies, except iron deficiency anemia and that type of goiter caused by a deficiency of iodine;

(g) That any major portion of the people in this country are ill because of mineral deficiencies, or that such deficiencies were the cause of the high percentage of the people in this country who failed to pass the physical examination for military service during World War II.

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

By said "Decision of the Commission" report of compliance was required as follows:

*It is ordered*, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 28, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F. R. Doc. 55-9129; Filed, Nov. 10, 1955;  
8:47 a. m.]

## TITLE 24—HOUSING AND HOUSING CREDIT

### Chapter II—Federal Housing Administration, Housing and Home Finance Agency

#### Subchapter F—Rehabilitation and Neighborhood Conservation Housing Insurance

#### PART 261—HOME REHABILITATION INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO ELEVEN-FAMILY DWELLINGS

#### PART 266—HOME RELOCATION INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING SINGLE FAMILY DWELLINGS

#### MAXIMUM MORTGAGE AMOUNT; LOAN-TO-VALUE LIMITATION

1. Section 261.7 is amended to read as follows:

§ 261.7 *Maximum mortgage amount; loan-to-value limitation.* In addition to meeting the dollar limitation as set forth in § 261.6 the mortgage shall meet a loan-to-value limitation as follows:

(a) Where the mortgagor is the occupant of the property the mortgage shall be in an amount not in excess of:

(1) 95 percent of \$9,000 of the Commissioner's estimate of the replacement cost, as of the date the mortgage is accepted for insurance if the dwelling is approved for mortgage insurance prior to the beginning of construction; and 75 percent of the Commissioner's estimate of the replacement cost in excess of \$9,000; or

(2) 90 percent of \$9,000 of the appraised value as of the date the mortgage is accepted for insurance if the proceeds of the mortgage are used to finance the rehabilitation of an existing property or to complete the construction of a new property not approved for mortgage insurance prior to the beginning of construction; and 75 percent of the appraised value in excess of \$9,000.

(b) Where the mortgagor is not the occupant of the property the principal obligation of the mortgage shall not exceed 85 percent of the amount computed under the formula in paragraph (a) of this section.

2. Section 266.6 is amended to read as follows:

§ 266.6 *Maximum mortgage amount; loan-to-value limitation.* In addition to meeting the dollar limitation as set forth in § 266.5 the mortgage shall be in an amount not to exceed.

(a) 95 percent of the appraised value, as of the date the mortgage is accepted for insurance, where the mortgagor is the occupant of the property, or

(b) 85 percent of the appraised value, as of the date the mortgage is accepted for insurance, if the mortgagor is not the owner and occupant: *Provided*, (1) The property is to be built or acquired or rehabilitated for sale, and (2) the insured mortgage financing is required to facilitate the construction or the repair or rehabilitation of the dwelling and provide financing pending the subsequent sale thereof to a qualified owner occupant.

(Sec. 211, 52 Stat. 23; 12 U. S. C. 1715b)

Issued at Washington, D. C., November 9, 1955.

NORMAN P. MASON,  
Federal Housing Commissioner

[F. R. Doc. 55-9158; Filed, Nov. 9, 1955;  
4:06 p. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### [ 26 CFR (1954) Part 1 ]

#### INCOME TAX: TAXABLE YEARS BEGINNING AFTER DEC. 31, 1953; DEPRECIATION

#### NOTICE OF PROPOSED RULE MAKING

Pursuant to the Administrative Procedure Act, approved June 11, 1946, pro-

posed regulations under section 167 of the Internal Revenue Code of 1954 were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for September 28, 1954 (19 F. R. 6229) After consideration of all relevant matter presented by interested persons regarding the rules proposed, notice is hereby given that such proposed regulations are hereby withdrawn.

Further, notice is hereby given, pursuant to the Administrative Procedure Act, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in substitution for the proposed regulations heretofore withdrawn. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 167 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 51, 917; 26 U. S. C. 167, 7805)

[SEAL] O. GORDON DELK,  
Acting Commissioner of  
Internal Revenue.

The following regulations are hereby prescribed under section 167 of the Internal Revenue Code of 1954:

- Sec.  
1.167 (a) Statutory provisions; depreciation; general rule.  
1.167 (a)-1 Depreciation in general.  
1.167 (a)-2 Tangible property.  
1.167 (a)-3 Intangibles.  
1.167 (a)-4 Leased property.  
1.167 (a)-5 Apportionment of basis.  
1.167 (a)-6 Depreciation in special cases.  
1.167 (a)-7 Accounting for depreciable property.  
1.167 (a)-8 Losses on normal retirements.  
1.167 (a)-9 Obsolescence.  
1.167 (a)-10 When depreciation deduction is allowable.  
1.167 (b) Statutory provisions; depreciation; use of certain methods and rates.  
1.167 (b)-0 Methods of computing depreciation.  
1.167 (b)-1 Straight line method.  
1.167 (b)-2 Declining balance method.  
1.167 (b)-3 Sum of the years-digits method.  
1.167 (b)-4 Other methods.  
1.167 (c) Statutory provisions; depreciation; limitations on use of certain methods and rates.  
1.167 (c)-1 Limitations on methods of computing depreciation under section 167 (b) (2), (3), and (4).  
1.167 (d) Statutory provisions; depreciation; agreement as to useful life on which depreciation rate is based.  
1.167 (d)-1 Agreement as to useful life and rates of depreciation.  
1.167 (e) Statutory provisions; depreciation; change in method.  
1.167 (f) Statutory provisions; depreciation; basis for depreciation.  
1.167 (f)-1 Basis for depreciation.  
1.167 (g) Statutory provisions; depreciation; life tenants and beneficiaries of trusts and estates.  
1.167 (g)-1 Life tenants and beneficiaries of trusts and estates.  
1.167 (h) Statutory provisions; depreciation; depreciation of improvements in the case of mines, etc.  
1.167 (h)-1 Depreciation of improvements in the case of mines, etc.

§ 1.167 (a) *Statutory provisions; depreciation; general rule.*

Sec. 167. *Depreciation*—(a) *General rule.* There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

- (1) Of property used in the trade or business, or
- (2) Of property held for the production of income.

§ 1.167 (a)-1 *Depreciation in general*—(a) *Reasonable allowance.* Section 167 (a) provides that a reasonable allowance for the exhaustion, wear and tear, and obsolescence of property used in the trade or business or of property held by the taxpayer for the production of income shall be allowed as a depreciation deduction. The allowance is that amount which should be set aside for the taxable year in accordance with a reasonably consistent plan (not necessarily at a uniform rate) so that the aggregate of the amounts set aside, plus the salvage value, will, at the end of the estimated useful life of the depreciable property, equal the cost or other basis of the property as provided in section 167 (f) and § 1.167 (f)-1. An asset shall not be depreciated below a reasonable salvage value under any method of computing depreciation. See paragraph (c) of this section for definition of salvage. The allowance shall not reflect amounts representing a mere reduction in market value.

(b) *Useful life.* For the purpose of section 167 the estimated useful life of an asset is not necessarily the useful life inherent in the asset but is the period over which the asset may reasonably be expected to be useful to the taxpayer in his trade or business or in the production of his income. This period shall be determined by reference to his experience with similar property taking into account present conditions and probable future developments. Some of the factors to be considered in determining this period are (1) wear and tear and decay or decline from natural causes, (2) the normal progress of the art, economic changes, inventions, and current developments within the industry and the taxpayer's trade or business, (3) the climatic and other local conditions peculiar to the taxpayer's trade or business, and (4) the taxpayer's policy as to repairs, renewals, and replacements. If the taxpayer's experience is inadequate, the general experience in the industry may be used until such time as the taxpayer's own experience forms an adequate basis for making the determination. The estimated remaining useful life may be subject to modification by reason of conditions known to exist at the end of the taxable year and shall be redetermined when necessary regardless of the method of computing depreciation. For rules covering agreements with respect to useful life, see section 167 (d) and § 1.167 (d)-1.

(c) *Salvage.* Salvage value is the amount realizable upon sale or other disposition of an asset when it is no longer useful in the taxpayer's trade or business or in the production of his income and is retired from service by the taxpayer. Salvage, when reduced by the cost of removal, is referred to as net salvage. The time at which an asset is

retired from service may vary according to the policy of the taxpayer. If the taxpayer's policy is to dispose of assets which are still in good operating condition, the salvage value may represent a relatively large proportion of the original basis of the asset. However, if the taxpayer customarily uses an asset until its inherent useful life has been substantially exhausted, salvage value may represent no more than junk value. Salvage value must be taken into account in determining the depreciation deduction either by a reduction of the amount subject to depreciation, by a reduction in the rate of depreciation, or as a limitation on the amount of the depreciation allowances. The taxpayer may use either salvage or net salvage in determining depreciation allowances but such practice must be consistently followed and the treatment of the costs of removal must be consistent with the practice adopted. For specific treatment of salvage value see §§ 1.167 (b)-1, 1.167 (b)-2, and 1.167 (b)-3. When an asset is retired, the amount of the salvage adjusted for the costs of removal, where necessary, should be credited to the depreciation reserve.

§ 1.167 (a)-2 *Tangible property.* The depreciation allowance in the case of tangible property applies only to that part of the property which is subject to wear and tear, to decay or decline from natural causes, to exhaustion, and to obsolescence. The allowance does not apply to inventories or stock in trade, or to land apart from the improvements or physical development added to it. The allowance does not apply to natural resources which are subject to the allowance for depletion provided in section 611. No deduction for depreciation shall be allowed on automobiles or other vehicles used solely for pleasure, on a building used by the taxpayer solely as his residence, or on furniture or furnishings therein, personal effects, or clothing; but properties and costumes used exclusively in a business, such as a theatrical business, may be depreciated.

§ 1.167 (a)-3 *Intangibles.* If an intangible asset is known from experience or other factors to be of use in the business or in the production of income for only a limited period, the length of which can be estimated with reasonable accuracy, such an intangible asset may be the subject of a depreciation allowance. Examples are patents and copyrights. An intangible asset, the useful life of which is not limited, is not subject to the allowance for depreciation. No allowance will be permitted merely because, in the unsupported opinion of the taxpayer, the intangible asset has a limited useful life. No deduction for depreciation is allowable with respect to goodwill. For rules with respect to organizational expenditures, see section 240 and the regulations thereunder.

§ 1.167 (a)-4 *Leased property.* Capital expenditures made by a lessee for the erection of buildings or the construction of other permanent improvements on leased property are recoverable through allowances for depreciation or amortization. If the useful life of such

improvements in the hands of the taxpayer is equal to or shorter than the remaining period of the lease, the allowance shall take the form of depreciation under section 167. See §§ 1.167 (b)-0, 1.167 (b)-1, 1.167 (b)-2, 1.167 (b)-3, and 1.167 (b)-4 for methods of computing such depreciation allowances. If, on the other hand, the estimated useful life of such property in the hands of the taxpayer, determined without regard to the terms of the lease, would be longer than the remaining period of such lease, the allowances shall take the form of annual deductions from gross income in an amount equal to the unrecovered cost of such capital expenditures divided by the number of years remaining of the term of the lease. Such deductions shall be in lieu of allowances for depreciation. See section 162 and the regulations thereunder. Capital expenditures made by a lessor for the erection of buildings or other improvements shall, if subject to depreciation allowances, be recovered by him over the estimated life of the improvements without regard to the period of the lease.

§ 1.167 (a)-5 *Apportionment of basis.* In the case of the acquisition on or after March 1, 1913, of a combination of depreciable and nondepreciable property for a lump sum, as for example, buildings and land, the basis for depreciation cannot exceed an amount which bears the same proportion to the lump sum as the value of the depreciable property at the time of acquisition bears to the value of the entire property at that time. In the case of property which is subject to both the allowance for depreciation and amortization, depreciation is allowable only with respect to the portion of the depreciable property which is not subject to the allowance for amortization and may be taken concurrently with the allowance for amortization. After the close of the amortization period or after amortization deductions have been discontinued with respect to any such property the unrecovered cost or other basis of the depreciable portion of such property will be subject to depreciation. For adjustments to basis, see section 1016 and other applicable provisions of law.

§ 1.167 (a)-6 *Depreciation in special cases—(a) Depreciation of patents or copyrights.* The cost or other basis of a patent or copyright shall be depreciated over its remaining useful life. Its cost to the patentee includes the various Government fees, cost of drawings, models, attorneys' fees, and similar expenditures. For rules applicable to research and experimental expenditures, see sections 174 and 1016 and the regulations thereunder. If a patent or copyright becomes valueless in any year before its expiration the unrecovered cost or other basis may be deducted in that year.

(b) *Depreciation in case of farmers.* A reasonable allowance for depreciation may be claimed on farm buildings (except a dwelling occupied by the owner) farm machinery, and other physical property but not including land. Livestock acquired for work, breeding, or dairy purposes may be depreciated unless

included in an inventory used to determine profits in accordance with section 61 and the regulations thereunder. Such depreciation should be determined with reference to the cost or other basis, salvage value, and the estimated useful life of the livestock. See also section 162 and the regulations thereunder relating to trade or business expenses, section 165 and the regulations thereunder relating to losses of farmers, and section 175 and the regulations thereunder relating to soil or water conservation expenditures.

§ 1.167 (a)-7 *Accounting for depreciable property.* (a) Depreciable property may be accounted for by treating each individual item as an account, or by combining two or more assets in a single account. Assets may be grouped in an account in a variety of ways. For example, assets similar in kind with approximately the same useful lives may be grouped together. Such an account is commonly known as a group account. Another appropriate grouping might consist of assets segregated according to use without regard to useful life, for example, machinery and equipment, furniture and fixtures, or transportation equipment. Such an account is commonly known as a classified account. A broader grouping, where assets are included in the same account regardless of their character or useful lives, is commonly referred to as a composite account. For example, in an extreme case a taxpayer might be permitted to combine all assets used in his business in a single account. Group, classified, or composite accounts may be further broken down on the basis of location, dates of acquisition, cost, character, use, etc.

(b) When group, classified, or composite accounts are used with average useful lives and a normal retirement occurs, the full cost or other basis of the asset retired, unadjusted for depreciation or salvage, shall be removed from the asset account and shall be charged to the depreciation reserve. Amounts representing salvage shall be credited to the depreciation reserve. Where an asset is disposed of for reasons other than normal retirement, the full cost or other basis of the asset shall be removed from the asset account, and the depreciation reserve shall be charged with the depreciation applicable to the retired asset. For rules with respect to losses on normal retirements, see § 1.167 (a)-8.

(c) A taxpayer may establish as many accounts for depreciable property as he desires. Depreciation allowances for the property contained in each account shall be computed separately. Such depreciation preferably should be recorded in a depreciation reserve account; however, in appropriate cases it may be recorded directly in the asset account. Where depreciation reserves are maintained, a separate reserve account shall be maintained for each asset account. The regular books of account or permanent auxiliary records shall show for each account the basis of the property, including adjustments necessary to conform to the requirements of section 1016 and other provisions of law

relating to adjustments to basis, and the depreciation allowances for tax purposes. In the event that reserves for book purposes do not correspond with reserves maintained for tax purposes, permanent auxiliary records shall be maintained with the regular books of account reconciling the differences in depreciation for tax and book purposes because of different methods of depreciation, bases, rates, salvage, or other factors. Depreciation schedules filed with the income tax return shall show the accumulated reserves computed in accordance with the allowances for income tax purposes.

(d) In classified or composite accounts, the average useful life and rate shall be redetermined whenever additions, retirements, or replacements substantially alter the relative proportion of types of assets in the accounts. See example (2) in § 1.167 (b)-1 (b) for the method of determining the depreciation rate for a classified or composite account.

§ 1.167 (a)-8 *Losses on normal retirements.* (a) Where depreciation is computed on individual assets (item accounting) the depreciation rate for each asset must be based on the maximum expected useful life of the asset, and in such case a loss equal to the unrecovered cost or other basis of the asset, adjusted for salvage value, is allowable upon its normal retirement. Thus, a manufacturer who purchases 50 identical assets which are expected to have an average life of 25 years but which will remain useful to him for varying periods between 20 and 40 years, must use a rate based on a 40-year life for each of the assets if he chooses to compute depreciation on each asset individually.

(b) Where depreciation is computed for an account containing two or more assets, the depreciation rate for that account may be based on the maximum expected useful life of the longest lived asset in the account, or may be based on the average useful life of the assets in the account. If the rate is based on the maximum expected useful life of the longest lived asset, upon the normal retirement of any asset in the account a loss is allowable equal to the unrecovered cost or other basis of the asset, adjusted for salvage value. On the other hand, if the rate is based on the average useful life, no loss is allowable on the normal retirement of an asset since the use of a rate based on the average useful life contemplates that some assets will be retired before and that others will be retired after the end of the average useful life.

(c) Experience with assets which attained an exceptional or unusual age shall, with respect to similar assets, be disregarded in determining the maximum expected useful life of an individual asset, or the maximum expected useful life of the longest lived asset in a multiple asset account. For instance, if, in the example above involving the identical assets, experience of the taxpayer with similar assets indicates that an occasional asset of this kind may last 60 years, the taxpayer will not be required to base the maximum expected useful life on such exceptional experience.

(d) A retirement shall be considered to be a normal retirement unless the taxpayer can show such retirement was due to a cause not contemplated in setting the applicable depreciation rate.

(e) Losses sustained on depreciable property other than losses arising from normal retirements, for example, from bona fide sales or exchanges, casualty or abandonment, may be allowable under section 165. See section 165 and the regulations thereunder. See example (2) in § 1.167 (b)-2 (b) for special rules in connection with the retirement of the last asset of a given year's acquisitions.

§ 1.167 (a)-9 *Obsolescence.* The depreciation allowance includes an allowance for normal obsolescence, that is, in computing the estimated useful life of the property, consideration should be given to the extent to which the expected useful life of an asset will be shortened by reason of technological improvement or reasonably foreseeable economic changes. In any case in which the taxpayer shows that the estimated useful life previously used should be shortened by reason of obsolescence greater than had been assumed in computing such estimated useful life, a change to a new and shorter estimated useful life computed in accordance with such showing will be permitted. No such change will be permitted merely because in the unsupported opinion of the taxpayer the property may become obsolete at some later date. For rules governing the allowance of a loss when the usefulness of an asset is suddenly terminated, see section 165 and the regulations thereunder. If the estimated useful life and the depreciation rates have been the subject of a previous agreement, see section 167 (d) and § 1.167 (d)-1.

§ 1.167 (a)-10 *When depreciation deduction is allowable.* (a) A taxpayer is not permitted under the law to offset income of later years by reason of his failure to deduct any depreciation allowance or of his action in deducting an allowance plainly inadequate under the known facts in prior years. The inadequacy of the depreciation allowance for property in prior years shall be determined on the basis of the allowable method of depreciation used by the taxpayer for such property or under the straight line method if no allowance has ever been claimed for such property. For rules relating to adjustments to basis, see section 1016 and the regulations thereunder.

(b) The period for depreciation of an asset shall begin on the date when the asset is placed in service and shall end on the date when the asset is retired from service. A proportionate part of one year's depreciation is allowable for that part of the first and last year during which the asset was in service. However, in the case of a multiple asset account, the amount of depreciation may be determined by using what is commonly described as the "averaging convention" under which it is assumed that all additions and retirements to the asset account occur uniformly throughout the taxable year. Under this convention depreciation is computed on the average

of the beginning and ending balances for the taxable year in the asset account. See example (3) under § 1.167 (b)-1 (b). Such averaging convention, if used, must be consistently followed. In any year in which such averaging convention substantially distorts the depreciation allowance for the taxable year, it may not be used. No other assumptions may be made with respect to the timing of additions and retirements during the taxable year.

§ 1.167 (b) *Statutory provisions; depreciation, use of certain methods and rates.*

SEC. 167. *Depreciation.* \* \* \*

(b) *Use of certain methods and rates.* For taxable years ending after December 31, 1953, the term "reasonable allowance" as used in subsection (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Secretary or his delegate, under any of the following methods:

- (1) The straight line method,
- (2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1),
- (3) The sum of the years-digits method, and
- (4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subsection (a).

§ 1.167 (b)-0 *Methods of computing depreciation—(a) In general.* Any reasonable and consistently applied method of computing depreciation may be used or continued to be used under section 167. Whatever method is adopted, due regard must be given to operating conditions during the taxable year. The reasonableness of any claim for depreciation shall be determined upon the basis of conditions known to exist at the end of the period for which the return is made. Regardless of the method used in computing depreciation, deductions for depreciation shall not exceed such amounts as may be necessary to recover the unrecovered cost or other basis less salvage during the remaining useful life of the property. It is the responsibility of the taxpayer to establish the reasonableness of the deduction for depreciation claimed. Generally, depreciation deductions so claimed will be changed only where there is a clear and convincing basis for a change.

(b) *Certain methods.* Methods previously found adequate to produce a reasonable allowance under the Internal Revenue Code of 1939 or prior revenue laws will, if used consistently by the taxpayer, continue to be acceptable under section 167. Examples of such methods which continue to be acceptable are the straight line method, the declining balance method with the rate limited to 150 percent of the applicable straight line

rate, and under appropriate circumstances, the unit of production method. The methods described in section 167 (b) and §§ 1.167 (b)-1, 1.167 (b)-2, 1.167 (b)-3, and 1.167 (b)-4 shall be deemed to produce a reasonable allowance for depreciation except as limited under section 167 (c) and § 1.167 (c)-1. See also § 1.167 (e)-1 for rules relating to change in method of computing depreciation.

(c) *Application of methods.* In the case of item accounts, any method which results in a reasonable allowance for depreciation may be selected for each item of property, but such method must thereafter be applied consistently to that particular item. In the case of group, classified, or composite accounts, any method may be selected for each account. Such method must be applied to that particular account consistently thereafter but need not necessarily be applied to acquisitions of similar property in the same or subsequent years, provided such acquisitions are set up in separate accounts. See, however, § 1.167 (e)-1 and section 446 and the regulations thereunder, for rules relating to changes in the method of computing depreciation, and § 1.167 (c)-1 for restriction on the use of certain methods. See also § 1.167 (a)-7 for definition of account.

§ 1.167 (b)-1 *Straight line method—*

(a) *Application of method.* Under the straight line method the cost or other basis of the property less its estimated salvage value is deductible in equal annual amounts over the period of the estimated useful life of the property. The allowance for depreciation for the taxable year is determined by dividing the adjusted basis of the property at the beginning of the taxable year, less salvage value, by the remaining useful life of the property at such time. For convenience, the allowance so determined may be reduced to a percentage. This method may be used in determining a reasonable allowance for depreciation for any property which is subject to depreciation under section 167 and it shall be used in all cases where the taxpayer has not adopted a different acceptable method with respect to such property.

(b) *Illustrations.* The straight line method is illustrated by the following examples:

*Example (1).* Under the straight line method items may be depreciated separately—

Year	Item	Cost or other basis less salvage	Useful life	Depreciation allowable		
				1954	1955	1956
1954	Asset A.....	\$1,000	4	\$250	\$250	\$250
	Asset B.....	12,000	49	245	245	245

<sup>1</sup> In this example one-half of the annual depreciation is taken on new additions.

*Example (2).* In group, classified, or composite accounting, a number of assets with the same or different useful lives may be combined into one account, and a single rate of depreciation, i. e., the group, classified, or composite rate used for the entire account. In the case of group accounts, i. e., accounts containing assets which are similar in kind and which have approximately the same esti-

salvage) is 5 percent and the declining balance rate at twice the normal straight line rate is 10 percent. The annual depreciation allowances for 1954, 1955 and 1956 are as follows:

Year	Basis	Declining balance rate (percent)	Depreciation allowance
1954	\$1,000	10	\$100
1955	900	10	90
1956	810	10	81

**Example (2)** A taxpayer filing his returns on a calendar year basis maintains a group account to which a 5 year life and a 40 percent declining balance rate are applicable. Original investment, additions, retirements and salvage recoveries are the same as those set forth in example (1) of § 1.167(b)-1 (b). Although salvage value is not taken into consideration in computing a declining balance rate, it must be recognized and accounted for when assets are retired.

allowed or allowable and for all other adjustments provided by section 1016 and other applicable provisions of law. The declining balance rate may be determined without resort to formula. Such rate determined under section 167 (b) (2) shall not exceed twice the appropriate straight line rate computed without adjustment for salvage. While salvage is not taken into account in determining the annual allowances under this method in no event shall an asset (or an account) be depreciated below a reasonable salvage value. See section 167 (c) and § 1.167 (c)-1 for restrictions on the use of the declining balance method.

**(b) Illustrations** The declining balance method is illustrated by the following examples:

**Example (1).** A new asset having an estimated useful life of 20 years was purchased on January 1, 1954 for \$1,000. The normal straight line rate (without adjustment for

DEPRECIABLE ASSET ACCOUNT AND DEPRECIATION COMPUTATION USING AVERAGE ASSET AND RESERVE BALANCES

Year	Asset balance Jan 1	Current additions	Current retirements	Asset balance Dec 31	Average balance	Average reserve before depreciation	Net depreciable balance	Rate (percent)	Allowable depreciation
1954	\$12,000	\$12,000		\$12,000	\$6,000	\$2,400	\$9,600	40	\$3,840
1955	12,000		\$2,000	12,000	12,000	6,240	6,760	40	2,704
1956	12,000		2,000	10,000	11,000	7,644	3,356	40	1,342
1957	12,000		2,000	8,000	9,000	9,186	1,814	40	726
1958	12,000	10,000	4,000	14,000	11,000	6,212	7,788	40	3,115
1959	12,000	14,000	2,000	12,000	13,000	4,727	8,273	40	3,309
1960	12,000		2,000	10,000	11,000	6,036	4,964	40	1,986

DEPRECIATION RESERVE

Year	Reserve Jan 1	Current retirements	Salvage realized	Reserve Dec 31, before depreciation	Average before depreciation	Allowable depreciation	Reserve Dec 31, after depreciation
1954	\$2,400			\$2,400	\$2,400	\$2,400	\$0
1955	6,240	\$2,000	\$200	6,240	6,240	3,840	2,400
1956	8,086	2,000	400	8,086	7,684	2,704	5,382
1957	7,012	2,000		7,012	7,012	1,342	5,670
1958	8,727	2,000		8,727	8,273	2,315	6,412
1959	7,036	2,000	2,000	7,036	6,036	1,986	5,050

Where separate depreciation accounts are maintained by year of acquisition and there is an unrecovered balance at the time of the last retirement such unrecovered balance may be deducted as part of the depreciation allowance for the year of such retirement. Thus, if the taxpayer had kept separate depreciation accounts by year of acquisition and all the retirements shown in the example above were from 1954 acquisitions depreciation would be computed on the 1954 and 1959 acquisitions as follows:

salvage will be 13.33 percent minus 10 percent of 13.33 percent (13.33% - 1.33%), or 12 percent.

**Example (3)** The use of the straight line method for group classified or composite accounts is illustrated by the following example: A taxpayer filing his returns on a calendar year basis maintains an asset account for which a group rate of 20 percent has been determined before adjustment for salvage. Estimated salvage is determined to be 6 1/2 percent resulting in an adjusted rate of 18.67 percent. During the years illustrated the initial investment, additions, retirements and salvage recoveries which were determined not to change the composition of the group sufficiently to require a change in rate were assumed to have been made as follows:

1954—Initial investment of \$12,000	\$200
1957—Retirement \$2,000 salvage realized \$200	\$200
1958—Retirement \$2,000 salvage realized \$200	\$200
1959—Retirement \$4,000 salvage realized \$400	\$400
1959—Additions \$10,000	\$10,000
1960—Retirement \$2,000 no salvage realized	\$2,000
1961—Retirement \$2,000 no salvage realized	\$2,000

1961—Retirement \$2,000 no salvage realized

DEPRECIABLE ASSET ACCOUNT AND DEPRECIATION COMPUTATION ON AVERAGE BALANCES

Year	Asset balance Jan 1	Current additions	Current retirements	Asset balance Dec. 31	Average balance	Rate (percent)	Allowable depreciation
1954	\$12,000	\$12,000		\$12,000	\$6,000	18.67	\$1,120
1955	12,000		\$2,000	12,000	12,000	18.67	2,240
1956	12,000		2,000	10,000	11,000	18.67	2,054
1957	12,000		2,000	8,000	9,000	18.67	1,680
1958	12,000	10,000	4,000	14,000	11,000	18.67	2,054
1959	12,000	14,000	2,000	12,000	13,000	18.67	2,421
1960	12,000		2,000	10,000	11,000	18.67	2,054

CORRESPONDING DEPRECIATION RESERVE ACCOUNT

Year	Depreciation reserve Jan 1	Depreciation allowable	Current retirements	Salvage realized	Depreciation reserve Dec 31
1954	\$1,120	\$1,120			\$1,120
1955	3,360	2,240	\$2,000	\$200	3,360
1956	5,414	2,054	2,000	400	5,414
1957	6,800	1,680	2,000		6,480
1958	8,534	2,054	2,000		8,588
1959	10,998	2,421	2,000		11,419
1960	9,365	2,054	2,000		9,419

§ 1.167 (b)-2 *Declining balance method*—(a) *Application of method* Under the declining balance method a uniform rate is applied each year to the unrecovered cost or other basis of the property. The unrecovered cost or other basis is the basis provided by section 167 (f) adjusted for depreciation previously

estimated useful lives the group rate is determined from the average of the useful lives of the assets. In the case of classified or composite accounts the classified or composite rate is generally computed by determining the amount of one year's depreciation for each item or each group of similar items and by dividing the total depreciation thus obtained by the total cost or other basis of the assets. The average rate so obtained is to be used as long as subsequent additions, retirements or replacements do not substantially alter the relative proportions of different types of assets in the account. An example of the computation of a classified or composite rate follows:

Cost or other basis	Estimated useful life	Annual depreciation
\$10,000	5	\$2,000
10,000	15	667
20,000		2,667

Average rate is 13.33 percent (\$2,667 ÷ \$20,000) unadjusted for salvage. Assuming the estimated salvage value is 10 percent of the cost or other basis the rate adjusted for salvage

1954 ACQUISITIONS

Year	Asset balance Jan. 1	Acquisitions	Current retirements	Asset balance Dec. 31	Average balance	Average reserve before depreciation	Net depreciable balance	Rate (percent)	Allowable depreciation
1954		\$12,000		\$12,000	\$3,000		\$3,000	40	\$2,400
1955	\$12,000			12,000	12,000	\$2,400	3,600	40	3,840
1956	12,000			12,000	12,000	6,240	5,760	40	2,304
1957	12,000		\$2,000	10,000	11,000	7,444	3,355	40	1,342
1958	10,000		2,000	8,000	9,000	7,188	1,814	40	733
1959	8,000		4,000	4,000	6,000	5,212	783	40	315
1960	4,000		2,000	2,000	3,000	2,727	273	40	109
1961	2,000		2,000		1,000	833	164		164

<sup>1</sup> Balance allowable as depreciation in the year of retirement of the last survivor of the 1954 acquisitions.

DEPRECIATION RESERVE FOR 1954 ACQUISITIONS

Year	Reserve Jan. 1	Current retirements	Salvage realized	Reserve Dec. 31, before depreciation	Average reserve before depreciation	Allowable depreciation	Reserve Dec. 31, after depreciation
1954						\$2,400	\$2,400
1955	\$2,400			\$2,400	\$2,400	3,840	6,240
1956	6,240			6,240	6,240	2,304	8,544
1957	8,544	\$2,000	\$800	6,744	6,744	1,342	8,686
1958	8,686	2,000	200	6,886	7,188	733	7,012
1959	7,012	4,000	400	3,412	5,212	315	3,727
1960	3,727	2,000		1,727	2,727	109	1,836
1961	1,836	2,000			(164)	164	

1959 ACQUISITIONS

Year	Asset balance Jan. 1	Acquisition	Asset balance Dec. 31	Average balance	Reserve Dec. 31, before depreciation	Net depreciable balance	Rate (percent)	Allowable depreciation	Reserve Dec. 31, after depreciation
1959		\$10,000	\$10,000	\$5,000	None	\$5,000	40	\$2,000	\$2,000
1960	\$10,000		10,000	10,000	\$2,000	3,000	40	1,200	3,200
1961	10,000		10,000	10,000	5,200	4,800	40	1,920	7,120

In the above example, the allowable depreciation on the 1954 acquisitions totals \$11,200. This amount when increased by salvage realized in the amount of \$800, equals the entire cost or other basis of the 1954 acquisitions (\$12,000)

(c) *Change in estimated useful life.* In the declining balance method when a change is justified in the useful life estimated for an account, subsequent computations shall be made as though the revised useful life had been originally estimated. For example, assume that an account has an estimated useful life of ten years and that a declining balance rate of 20 percent is applicable. If, at the end of the sixth year, it is determined that the remaining useful life of the account is six years, computations shall be made as though the estimated useful life was originally determined as twelve years. Accordingly, the applicable depreciation rate will be 16 2/3 percent. This rate is thereafter applied to the unrecovered cost or other basis.

§ 1.167 (b)-3 *Sum of the years-digits method*—(a) *Applied to a single asset*—

(1) *General rule.* Under the sum of the years-digits method annual allowances for depreciation are computed by applying changing fractions to the cost or other basis of the property reduced by estimated salvage. The numerator of the fraction changes each year to a number which corresponds to the remaining useful life of the asset (including the year for which the allowance is being computed) and the denominator which remains constant is the sum of all the years digits corresponding to the estimated useful life of the asset. See section 167 (c) and § 1.167 (c)-1 for restric-

tions on the use of the sum of the years-digits method.

(i) *Illustrations.* Computation of depreciation allowances on a single asset under the sum of the years-digits method is illustrated by the following examples:

*Example (1).* A new asset having an estimated useful life of five years was acquired on January 1, 1954, for \$1,750. The estimated salvage is \$250. For a taxpayer filing his returns on a calendar year basis, the annual depreciation allowances are as follows:

Year	Cost or other basis less salvage	Fraction <sup>1</sup>	Allowable depreciation	Depreciation reserve
1954	\$1,500	5/15	\$500	\$500
1955	1,500	4/15	400	900
1956	1,500	3/15	300	1,200
1957	1,500	2/15	200	1,400
1958	1,500	1/15	100	1,500

Unrecovered value (salvage)..... \$250

<sup>1</sup> The denominator of the fraction is the sum of the digits representing the years of useful life, i. e., 5, 4, 3, 2, and 1, or 15.

*Example (2).* Assume in connection with an asset acquired in 1954 that three-fourths of a year's depreciation is allowable in that year. The following illustrates a reasonable method of allocating depreciation:

	Depreciation for 12 months	Allowable depreciation		
		1954	1955	1956
1st year	\$200	\$375	\$125	\$100
2d year	400		200	100
3d year	600			200
		375	425	325

(ii) *Change in useful life.* Where in the case of a single asset, a change is justified in the useful life, subsequent computations shall be made as though the remaining useful life at the beginning of the taxable year of change were the useful life of a new asset acquired at such time and with a basis equal to the unrecovered cost or other basis of the asset at that time. For example, assume that a new asset with an estimated useful life of ten years is purchased in 1954. At the time of making out his return for 1959, the taxpayer finds that the asset has a remaining useful life of seven years from January 1, 1959. Depreciation for 1959 should then be computed as though 1959 were the first year of the life of an asset estimated to have a useful life of seven years, and the allowance for 1959 would be 7/23 of the unrecovered cost or other basis of the asset after adjustment for salvage.

(2) *Remaining life*—(i) *Application.* Under the sum of the years-digits method, annual allowances for depreciation may also be computed by applying changing fractions to the unrecovered cost or other basis of the asset reduced by estimated salvage. The numerator of the fraction changes each year to a number which corresponds to the remaining useful life of the asset (including the year for which the allowance is being computed) and the denominator changes each year to a number which represents the sum of the digits corresponding to the years of estimated remaining useful life of the asset. For decimal equivalents of such fractions see Table I below. For example, a new asset with an estimated useful life of 10 years is purchased January 1, 1954, for \$6,000. Assuming a salvage value of \$500, the depreciation allowance for 1954 is \$1,000 (\$5,500×0.1818, the applicable rate from Table I). For 1955, the unrecovered balance is \$4,500, and the remaining life is 9 years. The depreciation allowance for 1955 would then be \$900 (\$4,500×0.2000, the applicable rate from Table I)

(ii) *Table I.* This table shows decimal equivalents of sum of the years-digits fractions corresponding to remaining lives from 1 to 100 years.

TABLE I—DECIMAL EQUIVALENTS FOR USE OF SUM OF THE YEARS-DIGITS METHOD, BASED ON REMAINING LIFE

Remaining life (years)	Decimal equivalent	Remaining life (years)	Decimal equivalent
100.0	.0100	97.9	.0202
99.9	.0193	97.8	.0202
99.8	.0193	97.7	.0203
99.7	.0193	97.6	.0203
99.6	.0193	97.5	.0203
99.5	.0193	97.4	.0203
99.4	.0193	97.3	.0203
99.3	.0193	97.2	.0204
99.2	.0200	97.1	.0204
99.1	.0200	97.0	.0204
99.0	.0200	96.9	.0204
98.9	.0200	96.8	.0204
98.8	.0200	96.7	.0205
98.7	.0201	96.6	.0205
98.6	.0201	96.5	.0205
98.5	.0201	96.4	.0205
98.4	.0201	96.3	.0206
98.3	.0201	96.2	.0206
98.2	.0202	96.1	.0206
98.1	.0202	96.0	.0206
98.0	.0202	95.9	.0206

PROPOSED RULE MAKING

TABLE I—DECIMAL EQUIVALENTS FOR USE OF SUM OF THE YEARS-DIGITS METHOD, BASED ON REMAINING LIFE—Continued

TABLE I—DECIMAL EQUIVALENTS FOR USE OF SUM OF THE YEARS-DIGITS METHOD, BASED ON REMAINING LIFE—Continued

TABLE I—DECIMAL EQUIVALENTS FOR USE OF SUM OF THE YEARS-DIGITS METHOD, BASED ON REMAINING LIFE—Continued

Remain- ing life (years)	Decimal equiva- lent	Remain- ing life (years)	Decimal equiva- lent
95.8	0.0207	87.3	0.0226
95.7	0207	87.2	0227
95.6	0207	87.1	0227
95.5	0207	87.0	0227
95.4	0207	86.9	0228
95.3	0208	86.8	0228
95.2	0208	86.7	0228
95.1	0208	86.6	0228
95.0	0208	86.5	0229
94.9	0209	86.4	0229
94.8	0209	86.3	0229
94.7	0209	86.2	0229
94.6	0209	86.1	0230
94.5	0209	86.0	0230
94.4	0210	85.9	0230
94.3	0210	85.8	0230
94.2	0210	85.7	0231
94.1	0210	85.6	0231
94.0	0211	85.5	0231
93.9	0211	85.4	0231
93.8	0211	85.3	0232
93.7	0211	85.2	0232
93.6	0211	85.1	0232
93.5	0212	85.0	0233
93.4	0212	84.9	0233
93.3	0212	84.8	0233
93.2	0212	84.7	0233
93.1	0213	84.6	0234
93.0	0213	84.5	0234
92.9	0213	84.4	0234
92.8	0213	84.3	0234
92.7	0213	84.2	0235
92.6	0214	84.1	0235
92.5	0214	84.0	0235
92.4	0214	83.9	0236
92.3	0214	83.8	0236
92.2	0215	83.7	0236
92.1	0215	83.6	0236
92.0	0215	83.5	0237
91.9	0215	83.4	0237
91.8	0216	83.3	0237
91.7	0216	83.2	0238
91.6	0216	83.1	0238
91.5	0216	83.0	0238
91.4	0216	82.9	0238
91.3	0217	82.8	0239
91.2	0217	82.7	0239
91.1	0217	82.6	0239
91.0	0217	82.5	0240
90.9	0218	82.4	0240
90.8	0218	82.3	0240
90.7	0218	82.2	0240
90.6	0218	82.1	0241
90.5	0219	82.0	0241
90.4	0219	81.9	0241
90.3	0219	81.8	0242
90.2	0219	81.7	0242
90.1	0220	81.6	0242
90.0	0220	81.5	0242
89.9	0220	81.4	0243
89.8	0220	81.3	0243
89.7	0221	81.2	0243
89.6	0221	81.1	0244
89.5	0221	81.0	0244
89.4	0221	80.9	0244
89.3	0221	80.8	0244
89.2	0222	80.7	0245
89.1	0222	80.6	0245
89.0	0222	80.5	0245
88.9	0222	80.4	0246
88.8	0223	80.3	0246
88.7	0223	80.2	0246
88.6	0223	80.1	0247
88.5	0223	80.0	0247
88.4	0224	79.9	0247
88.3	0224	79.8	0248
88.2	0224	79.7	0248
88.1	0224	79.6	0248
88.0	0225	79.5	0248
87.9	0225	79.4	0249
87.8	0225	79.3	0249
87.7	0225	79.2	0249
87.6	0226	79.1	0250
87.5	0226	79.0	0250
87.4	0226	78.9	0250

Remain- ing life (years)	Decimal equiva- lent	Remain- ing life (years)	Decimal equiva- lent
78.8	0.0251	70.3	0.0280
78.7	0251	70.2	0281
78.6	0251	70.1	0281
78.5	0252	70.0	0282
78.4	0252	69.9	0282
78.3	0252	69.8	0282
78.2	0253	69.7	0283
78.1	0253	69.6	0283
78.0	0253	69.5	0284
77.9	0253	69.4	0284
77.8	0254	69.3	0284
77.7	0254	69.2	0285
77.6	0254	69.1	0285
77.5	0255	69.0	0286
77.4	0255	68.9	0286
77.3	0255	68.8	0287
77.2	0256	68.7	0287
77.1	0256	68.6	0287
77.0	0256	68.5	0288
76.9	0257	68.4	0288
76.8	0257	68.3	0289
76.7	0257	68.2	0289
76.6	0258	68.1	0289
76.5	0258	68.0	0290
76.4	0258	67.9	0290
76.3	0259	67.8	0291
76.2	0259	67.7	0291
76.1	0259	67.6	0292
76.0	0260	67.5	0292
75.9	0260	67.4	0292
75.8	0260	67.3	0293
75.7	0261	67.2	0293
75.6	0261	67.1	0294
75.5	0261	67.0	0294
75.4	0262	66.9	0295
75.3	0262	66.8	0295
75.2	0262	66.7	0295
75.1	0263	66.6	0296
75.0	0263	66.5	0296
74.9	0264	66.4	0297
74.8	0264	66.3	0297
74.7	0264	66.2	0298
74.6	0265	66.1	0298
74.5	0265	66.0	0299
74.4	0265	65.9	0299
74.3	0266	65.8	0299
74.2	0266	65.7	0300
74.1	0266	65.6	0300
74.0	0267	65.5	0301
73.9	0267	65.4	0301
73.8	0267	65.3	0302
73.7	0268	65.2	0302
73.6	0268	65.1	0303
73.5	0268	65.0	0303
73.4	0269	64.9	0303
73.3	0269	64.8	0304
73.2	0270	64.7	0304
73.1	0270	64.6	0305
73.0	0270	64.5	0305
72.9	0271	64.4	0306
72.8	0271	64.3	0306
72.7	0271	64.2	0307
72.6	0272	64.1	0307
72.5	0272	64.0	0308
72.4	0272	63.9	0308
72.3	0273	63.8	0309
72.2	0273	63.7	0309
72.1	0274	63.6	0310
72.0	0274	63.5	0310
71.9	0274	63.4	0311
71.8	0275	63.3	0311
71.7	0275	63.2	0312
71.6	0275	63.1	0312
71.5	0276	63.0	0313
71.4	0276	62.9	0313
71.3	0277	62.8	0313
71.2	0277	62.7	0314
71.1	0277	62.6	0314
71.0	0278	62.5	0315
70.9	0278	62.4	0315
70.8	0279	62.3	0316
70.7	0279	62.2	0316
70.6	0279	62.1	0317
70.5	0280	62.0	0317
70.4	0280	61.9	0318

Remain- ing life (years)	Decimal equiva- lent	Remain- ing life (years)	Decimal equiva- lent
61.8	0.0318	53.3	0.0360
61.7	0319	53.2	0360
61.6	0319	53.1	0370
61.5	0320	53.0	0370
61.4	0320	52.9	0371
61.3	0321	52.8	0372
61.2	0322	52.7	0372
61.1	0322	52.6	0373
61.0	0323	52.5	0374
60.9	0323	52.4	0374
60.8	0324	52.3	0375
60.7	0324	52.2	0376
60.6	0325	52.1	0377
60.5	0325	52.0	0377
60.4	0326	51.9	0378
60.3	0326	51.8	0379
60.2	0327	51.7	0379
60.1	0327	51.6	0380
60.0	0328	51.5	0381
59.9	0328	51.4	0382
59.8	0329	51.3	0382
59.7	0329	51.2	0383
59.6	0330	51.1	0384
59.5	0331	51.0	0385
59.4	0331	50.9	0385
59.3	0332	50.8	0386
59.2	0332	50.7	0387
59.1	0333	50.6	0388
59.0	0333	50.5	0388
58.9	0334	50.4	0389
58.8	0334	50.3	0390
58.7	0335	50.2	0391
58.6	0336	50.1	0391
58.5	0336	50.0	0392
58.4	0337	49.9	0393
58.3	0337	49.8	0394
58.2	0338	49.7	0394
58.1	0338	49.6	0395
58.0	0339	49.5	0395
57.9	0340	49.4	0397
57.8	0340	49.3	0398
57.7	0341	49.2	0398
57.6	0341	49.1	0399
57.5	0342	49.0	0400
57.4	0342	48.9	0401
57.3	0343	48.8	0402
57.2	0344	48.7	0402
57.1	0344	48.6	0403
57.0	0345	48.5	0404
56.9	0345	48.4	0405
56.8	0346	48.3	0406
56.7	0347	48.2	0406
56.6	0347	48.1	0407
56.5	0348	48.0	0408
56.4	0348	47.9	0409
56.3	0349	47.8	0410
56.2	0350	47.7	0411
56.1	0350	47.6	0411
56.0	0351	47.5	0412
55.9	0351	47.4	0413
55.8	0352	47.3	0414
55.7	0353	47.2	0415
55.6	0353	47.1	0416
55.5	0354	47.0	0417
55.4	0355	46.9	0418
55.3	0355	46.8	0418
55.2	0356	46.7	0419
55.1	0356	46.6	0420
55.0	0357	46.5	0421
54.9	0358	46.4	0422
54.8	0358	46.3	0423
54.7	0359	46.2	0424
54.6	0360	46.1	0425
54.5	0360	46.0	0426
54.4	0361	45.9	0426
54.3	0362	45.8	0427
54.2	0362	45.7	0428
54.1	0363	45.6	0429
54.0	0364	45.5	0430
53.9	0364	45.4	0431
53.8	0365	45.3	0432
53.7	0366	45.2	0433
53.6	0366	45.1	0434
53.5	0367	45.0	0435
53.4	0368	44.9	0436

TABLE I—DECIMAL EQUIVALENTS FOR USE OF SUM OF THE YEARS-DIGITS METHOD, BASED ON REMAINING LIFE—Continued

Remain- ing life (years)	Decimal equiva- lent	Remain- ing life (years)	Decimal equiva- lent
44.8	0.0437	36.3	0.0536
44.7	0.0438	36.2	0.0538
44.6	0.0439	36.1	0.0539
44.5	0.0440	36.0	0.0541
44.4	0.0440	35.9	0.0542
44.3	0.0441	35.8	0.0543
44.2	0.0442	35.7	0.0545
44.1	0.0443	35.6	0.0546
44.0	0.0444	35.5	0.0548
43.9	0.0445	35.4	0.0549
43.8	0.0446	35.3	0.0551
43.7	0.0447	35.2°	0.0552
43.6	0.0448	35.1	0.0554
43.5	0.0449	35.0	0.0556
43.4	0.0450	34.9	0.0557
43.3	0.0451	34.8	0.0559
43.2	0.0452	34.7	0.0560
43.1	0.0453	34.6	0.0562
43.0	0.0455	34.5	0.0563
42.9	0.0456	34.4	0.0565
42.8	0.0457	34.3	0.0566
42.7	0.0458	34.2	0.0568
42.6	0.0459	34.1	0.0570
42.5	0.0460	34.0	0.0571
42.4	0.0461	33.9	0.0573
42.3	0.0462	33.8	0.0575
42.2	0.0463	33.7	0.0576
42.1	0.0464	33.6	0.0578
42.0	0.0465	33.5	0.0580
41.9	0.0466	33.4	0.0581
41.8	0.0467	33.3	0.0583
41.7	0.0468	33.2	0.0585
41.6	0.0469	33.1	0.0586
41.5	0.0471	33.0	0.0588
41.4	0.0472	32.9	0.0590
41.3	0.0473	32.8	0.0592
41.2	0.0474	32.7	0.0593
41.1	0.0475	32.6	0.0595
41.0	0.0476	32.5	0.0597
40.9	0.0477	32.4	0.0599
40.8	0.0478	32.3	0.0600
40.7	0.0480	32.2	0.0602
40.6	0.0481	32.1	0.0604
40.5	0.0482	32.0	0.0606
40.4	0.0483	31.9	0.0608
40.3	0.0484	31.8	0.0610
40.2	0.0485	31.7	0.0611
40.1	0.0487	31.6	0.0613
40.0	0.0488	31.5	0.0615
39.9	0.0489	31.4	0.0617
39.8	0.0490	31.3	0.0619
39.7	0.0491	31.2	0.0621
39.6	0.0493	31.1	0.0623
39.5	0.0494	31.0	0.0625
39.4	0.0495	30.9	0.0627
39.3	0.0496	30.8	0.0629
39.2	0.0497	30.7	0.0631
39.1	0.0499	30.6	0.0633
39.0	0.0500	30.5	0.0635
38.9	0.0501	30.4	0.0637
38.8	0.0502	30.3	0.0639
38.7	0.0504	30.2	0.0641
38.6	0.0505	30.1	0.0643
38.5	0.0506	30.0	0.0645
38.4	0.0508	29.9	0.0647
38.3	0.0509	29.8	0.0649
38.2	0.0510	29.7	0.0651
38.1	0.0511	29.6	0.0653
38.0	0.0513	29.5	0.0656
37.9	0.0514	29.4	0.0658
37.8	0.0515	29.3	0.0660
37.7	0.0517	29.2	0.0662
37.6	0.0518	29.1	0.0664
37.5	0.0519	29.0	0.0667
37.4	0.0521	28.9	0.0669
37.3	0.0522	28.8	0.0671
37.2	0.0524	28.7	0.0673
37.1	0.0525	28.6	0.0675
37.0	0.0526	28.5	0.0678
36.9	0.0528	28.4	0.0680
36.8	0.0529	28.3	0.0682
36.7	0.0530	28.2	0.0685
36.6	0.0532	28.1	0.0687
36.5	0.0533	28.0	0.0690
36.4	0.0535	27.9	0.0692

TABLE I—DECIMAL EQUIVALENTS FOR USE OF SUM OF THE YEARS-DIGITS METHOD, BASED ON REMAINING LIFE—Continued

Remain- ing life (years)	Decimal equiva- lent	Remain- ing life (years)	Decimal equiva- lent
27.8	0.0694	19.3	0.0935
27.7	0.0697	19.2	0.0930
27.6	0.0699	19.1	0.0925
27.5	0.0702	19.0	0.0920
27.4	0.0704	18.9	0.0915
27.3	0.0707	18.8	0.0910
27.2	0.0709	18.7	0.0915
27.1	0.0712	18.6	0.0920
27.0	0.0714	18.5	0.0925
26.9	0.0717	18.4	0.0930
26.8	0.0719	18.3	0.0936
26.7	0.0722	18.2	0.0941
26.6	0.0724	18.1	0.0947
26.5	0.0727	18.0	0.0953
26.4	0.0730	17.9	0.0958
26.3	0.0732	17.8	0.0963
26.2	0.0735	17.7	0.0969
26.1	0.0738	17.6	0.0974
26.0	0.0741	17.5	0.0980
25.9	0.0743	17.4	0.0986
25.8	0.0746	17.3	0.0992
25.7	0.0749	17.2	0.0998
25.6	0.0752	17.1	0.1005
25.5	0.0754	17.0	0.1011
25.4	0.0757	16.9	0.1017
25.3	0.0760	16.8	0.1023
25.2	0.0763	16.7	0.1029
25.1	0.0766	16.6	0.1036
25.0	0.0769	16.5	0.1042
24.9	0.0772	16.4	0.1048
24.8	0.0775	16.3	0.1055
24.7	0.0778	16.2	0.1062
24.6	0.0781	16.1	0.1069
24.5	0.0784	16.0	0.1076
24.4	0.0787	15.9	0.1083
24.3	0.0790	15.8	0.1090
24.2	0.0793	15.7	0.1097
24.1	0.0797	15.6	0.1104
24.0	0.0800	15.5	0.1111
23.9	0.0803	15.4	0.1118
23.8	0.0806	15.3	0.1126
23.7	0.0809	15.2	0.1134
23.6	0.0813	15.1	0.1142
23.5	0.0816	15.0	0.1150
23.4	0.0819	14.9	0.1157
23.3	0.0823	14.8	0.1165
23.2	0.0826	14.7	0.1173
23.1	0.0830	14.6	0.1181
23.0	0.0833	14.5	0.1189
22.9	0.0837	14.4	0.1197
22.8	0.0840	14.3	0.1206
22.7	0.0844	14.2	0.1215
22.6	0.0847	14.1	0.1224
22.5	0.0851	14.0	0.1233
22.4	0.0854	13.9	0.1242
22.3	0.0858	13.8	0.1250
22.2	0.0862	13.7	0.1259
22.1	0.0866	13.6	0.1268
22.0	0.0870	13.5	0.1278
21.9	0.0873	13.4	0.1287
21.8	0.0877	13.3	0.1297
21.7	0.0881	13.2	0.1307
21.6	0.0885	13.1	0.1317
21.5	0.0889	13.0	0.1327
21.4	0.0892	12.9	0.1337
21.3	0.0896	12.8	0.1348
21.2	0.0901	12.7	0.1358
21.1	0.0905	12.6	0.1369
21.0	0.0909	12.5	0.1379
20.9	0.0913	12.4	0.1390
20.8	0.0917	12.3	0.1401
20.7	0.0921	12.2	0.1412
20.6	0.0925	12.1	0.1423
20.5	0.0930	12.0	0.1434
20.4	0.0934	11.9	0.1445
20.3	0.0939	11.8	0.1456
20.2	0.0943	11.7	0.1467
20.1	0.0948	11.6	0.1478
20.0	0.0952	11.5	0.1489
19.9	0.0957	11.4	0.1500
19.8	0.0961	11.3	0.1511
19.7	0.0966	11.2	0.1522
19.6	0.0970	11.1	0.1533
19.5	0.0975	11.0	0.1544
19.4	0.0980		

TABLE I—DECIMAL EQUIVALENTS FOR USE OF SUM OF THE YEARS-DIGITS METHOD, BASED ON REMAINING LIFE—Continued

Remain- ing life (years)	Decimal equiva- lent	Remain- ing life (years)	Decimal equiva- lent
10.9	0.1629	5.9	0.2332
10.8	0.1633	5.8	0.2329
10.7	0.1767	5.7	0.2339
10.6	0.1721	5.6	0.2311
10.5	0.1736	5.5	0.2356
10.4	0.1751	5.4	0.2303
10.3	0.1767	5.3	0.2355
10.2	0.1783	5.2	0.2310
10.1	0.1899	5.1	0.2329
10.0	0.1816	5.0	0.2333
9.9	0.1833	4.9	0.2379
9.8	0.1849	4.8	0.2429
9.7	0.1865	4.7	0.2481
9.6	0.1882	4.6	0.2538
9.5	0.1900	4.5	0.2609
9.4	0.1916	4.4	0.2657
9.3	0.1933	4.3	0.2739
9.2	0.1957	4.2	0.2818
9.1	0.1978	4.1	0.2905
9.0	0.2000	4.0	0.2990
8.9	0.2018	3.9	0.3063
8.8	0.2037	3.8	0.3130
8.7	0.2057	3.7	0.3205
8.6	0.2077	3.6	0.3286
8.5	0.2099	3.5	0.3375
8.4	0.2121	3.4	0.3474
8.3	0.2145	3.3	0.3583
8.2	0.2169	3.2	0.3703
8.1	0.2195	3.1	0.3834
8.0	0.2222	3.0	0.3970
7.9	0.2244	2.9	0.4093
7.8	0.2267	2.8	0.4185
7.7	0.2292	2.7	0.4294
7.6	0.2317	2.6	0.4417
7.5	0.2344	2.5	0.4556
7.4	0.2372	2.4	0.4714
7.3	0.2401	2.3	0.4837
7.2	0.2432	2.2	0.4911
7.1	0.2465	2.1	0.5064
7.0	0.2500	2.0	0.5267
6.9	0.2527	1.9	0.5488
6.8	0.2556	1.8	0.5723
6.7	0.2587	1.7	0.5933
6.6	0.2619	1.6	0.6213
6.5	0.2653	1.5	0.6500
6.4	0.2679	1.4	0.6778
6.3	0.2727	1.3	0.7125
6.2	0.2763	1.2	0.7571
6.1	0.2811	1.1	0.8167
6.0	0.2857	1.0	0.8800

NOTE: For determination of decimal equivalents of remaining lives falling between those shown in the above table, the taxpayer may use the next longest life shown in the table, interpolate from the table, or use the following formula from which the table was derived.

$$D = \frac{2F}{(W+2F)(W+1)}$$

where:  
 D = Decimal equivalent.  
 F = Remaining life.  
 W = Whole number of years in remaining life.  
 F = Fractional part of year in remaining life.

If the taxpayer desires to carry his calculations of decimal equivalents to a greater number of decimal places than is provided in the table, he may use the formula. The procedure adopted must be consistently followed thereafter.

(b) Applied to group, classified, or composite accounts—(1) General rule. The sum of the years-digits method may be applied to group, classified, or composite accounts in accordance with the plan described in subparagraph (2) or in accordance with other plans as explained in subparagraph (3).

(2) *Remaining life plan.* The remaining life plan as applied to a single asset is described in § 1.167 (b)-3 (a) (2). This plan may also be applied to group, classified, or composite accounts. Under this plan the allowance for depreciation is computed by applying changing fractions to the unrecovered cost or other basis of the account reduced by estimated salvage. The numerator of the fraction changes each year to a number which corresponds to the remaining useful life of the account (including the year for which the allowance is being computed) and the denominator changes each year to a number which represents the sum of the years digits corresponding to the years of estimated remaining useful life of the account. Decimal equivalents of such fractions can

be obtained by use of Table I under § 1.167 (b)-3 (a) (2) (ii). The proper application of this method requires that the estimated remaining useful life of the account be redetermined each year. This redetermination, of course, may be made each year by analysis, i. e., by determining the remaining lives for each of the components in the account, and averaging them. The estimated remaining life of any account, however, may also be determined arithmetically by dividing the unrecovered cost or other basis of the account, as computed by straight line depreciation, by the gross cost or other basis of the account, and multiplying the result by the average life of the assets in the account. Thus, if a group account with an average life of ten years had at January 1, 1958, a

gross asset balance of \$12,600 and a depreciation reserve computed on the straight line method of \$9,450, the remaining life of the account at January 1, 1958, would be computed as follows:

$$\frac{\$12,600 - \$9,450}{\$12,600}$$

times 10 years equals 2.50 years.

(i) *Example.* The use of the sum of the years-digits method with group, classified, or composite accounts under the remaining life plan is illustrated by the following example: A calendar year taxpayer maintains a group account to which a five-year life is applicable. Original investment, additions, retirements, and salvage recoveries are the same as those set forth in example (3) of § 1.167 (b)-1 (b)

DEPRECIATION COMPUTATION ON A GROUP ACCOUNT UNDER REMAINING LIFE PLAN

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
	Asset balance Jan. 1	Current additions	Current retirements	Average asset balance	Straight line amount—Col. (4)—life	Straight line reserve—Col. (6)—accumulated Jan. 1	Remaining life—Col. (1)—Col. (6)+ Col. (1)× average service life	Asset balance reduced by salvage—Col. (1)× (100%—6.67%)	Current additions reduced by salvage—Col. (2)× (100%—6.67%)	Salvage realized	Sum of the year's digits depreciation			
											Accumulated reserve Jan. 1—Prior reserve+ Col. (14)+ Col. (10)—Col. (3)	Unrecovered Jan. 1—Col. (11)	Ratio based on Col. (7) from Table I	Allowable depreciation—Col. (12)× Col. (13)+ ½ Col. (9) × F <sup>2</sup>
1954		\$12,000		\$6,000	1 \$1,200		5.00		\$11,200				0.3333	\$1,860
1955	\$12,000			12,000	2,400	\$1,200	4.50	\$11,200		\$1,860	\$9,334	\$9,334	.3600	3,360
1956	12,000			12,000	2,400	3,600	3.50	11,200		5,226	5,974	4,375	.4375	2,614
1957	12,000		\$2,000	11,000	2,200	6,000	2.50	11,200	\$200	7,840	3,360	5,550	.5550	1,867
1958	10,000		2,000	9,000	1,800	6,200	1.90	9,333	200	7,907	1,425	6,780	.6780	963
1959	8,000	10,000	4,000	11,000	2,200	6,000	1.25	7,466	400	7,075	391	8,125	.8125	1,874
1960	14,000		2,000	13,000	2,600	4,200	3.50	13,066		5,349	7,717	4,375	.4375	3,370
1961	12,000		2,000	11,000	2,200	4,800	3.00	11,200		6,725	4,475	5,000	.5000	2,239
1962						5,000				6,963				

<sup>1</sup> ½ year's amount.

<sup>2</sup> F = Rate based on average service life (0.3333 in this example).

(3) *Other plans for application of the sum of the years-digits method.* Taxpayers who wish to use the sum of the years-digits method in computing depreciation for group, classified, or composite accounts in accordance with a sum of the years digits plan other than the remaining life plan described herein may do so only with the consent of the Commissioner. Request for permission to use methods other than that described shall be addressed to the Commissioner of Internal Revenue, Washington 25, D. C.

allowances under the declining balance method would be as follows:

	Current depreciation	Accumulated depreciation	Balance
Cost of asset			\$1,000
First year	\$333	\$333	667
Second year	222	555	445
Third year	148	703	297
Fourth year	99	802	198

An annual allowance computed by any other method under section 167 (b) (4) could not exceed \$333 for the first year, and at the end of the second year the total allowances for the two years could not exceed \$555. Likewise, the total allowances for the three years could not exceed \$703 and for the four years could not exceed \$802. This limitation would not apply in the fifth and sixth years. See section 167 (c) and § 1.167 (c)-1 for restrictions on the use of certain methods.

(b) It shall be the responsibility of the taxpayer to establish to the satisfaction of the Commissioner that a method of depreciation under section 167 (b) (4) is both a reasonable and consistent method and that it does not produce depreciation allowances in excess of the amount permitted under the limitations provided in such section.

§ 1.167 (c) *Statutory provisions; depreciation; limitations on use of certain methods and rates.*

Sec. 167. Depreciation. \* \* \*

(c) *Limitations on use of certain methods and rates.* Paragraphs (2), (3), and (4) of subsection (b) shall apply only in the case of property (other than intangible property) described in subsection (a) with a useful life of 3 years or more—

(1) The construction, reconstruction, or erection of which is completed after December 31, 1953, and then only to that portion of the basis which is properly attributable to such construction, reconstruction, or erection after December 31, 1953, or

(2) Acquired after December 31, 1953, if the original use of such property commences with the taxpayer and commences after such date.

§ 1.167 (c)-1 *Limitations on methods of computing depreciation under section 167 (b) (2) (3) and (4)—(a) In general.* (1) Section 167 (c) provides limitations on the use of the declining balance method described in section 167 (b) (2) the sum of the years-digits method described in section 167 (b) (3), and certain other methods authorized by section 167 (b) (4). These methods are applicable only to tangible property having a useful life of three years or more. If construction, reconstruction, or erection by the taxpayer began before January 1, 1954, and was completed after December 31, 1953, these methods apply

only to that portion of the basis of the property which is properly attributable to such construction, reconstruction, or erection after December 31, 1953. Property is considered as constructed, reconstructed, or erected by the taxpayer if the work is done for him in accordance with his specifications. The portion of the basis of such property attributable to construction, reconstruction, or erection after December 31, 1953, consists of all costs of the property allocable to the period after December 31, 1953, including the cost or other basis of materials entering into such work. It is not necessary that such materials be acquired after December 31, 1953, or that they be new in use. If construction or erection by the taxpayer began after December 31, 1953, the entire cost or other basis of such construction or erection qualifies for these methods of depreciation. In the case of reconstruction of property, these methods do not apply to any part of the adjusted basis of such property on December 31, 1953. For purposes of this section, construction, reconstruction, or erection by the taxpayer begins when physical work is started on such construction, reconstruction, or erection.

(2) If the property was not constructed, reconstructed, or erected by the taxpayer, these methods apply only if it was acquired after December 31, 1953, and if the original use of the property commences with the taxpayer and commences after December 31, 1953. For the purpose of the preceding sentence, property shall be deemed to be acquired when reduced to physical possession, or control. The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. For example, a reconditioned or rebuilt machine acquired after December 31, 1953, will not be treated as being put to original use by the taxpayer even though it is put to a different use, nor will a horse acquired for breeding purposes be treated as being put to original use by the taxpayer if prior to the purchase the horse was used for racing purposes. See §§ 1.167 (b)-2, 3, and 4 for application of the various methods.

(3) Assets having an estimated average useful life of less than three years shall not be included in a group, classified, or composite account to which the methods described in §§ 1.167 (b)-2, 3, and 4 are applicable. However, an incidental retirement of an asset from such an account prior to the expiration of a useful life of three years will not prevent the application of these methods to such an account.

(4) See section 381 (c) (6) and the regulations thereunder for rules covering the use of depreciation methods by acquiring corporations in the case of certain corporate acquisitions.

(b) *Illustrations.* (1) The application of these methods to property constructed, reconstructed, or erected by the taxpayer after December 31, 1953, may be illustrated by the following examples:

*Example (1).* If a building with a total cost of \$100,000 is completed after December 31, 1953, and the portion attributable to

construction after December 31, 1953, is determined by engineering estimates or by cost accounting records to be \$30,000, the methods referred to in paragraph (a) (1) above, are applicable only to the \$30,000 portion of the total.

*Example (2).* In 1954, a taxpayer has an old machine with an unrecovered cost of \$1,000. If he contracts to have it reconditioned, or reconditions it himself, at a cost of an additional \$5,000, only the \$5,000 may be depreciated under the methods referred to in paragraph (a) (1) above, whether or not the materials used for reconditioning are new in use.

*Example (3).* A taxpayer who acquired a building in 1940 makes major maintenance or repair expenditures in 1954 of a type which must be capitalized. For these expenditures the taxpayer may use a method of depreciation different from that used on the building (for example, the methods referred to in paragraph (a) (1) above) only if he accounts for such expenditures separately from the account which contained the original building. In such case, the unadjusted basis on any parts replaced shall be removed from the asset account and shall be charged to the appropriate depreciation reserve account. In the alternative he may capitalize such expenditures by charging them to the depreciation reserve account for the building.

(2) The application of these methods to property which was not constructed, reconstructed, or erected by the taxpayer but which was acquired after December 31, 1953, may be illustrated by the following examples:

*Example (1).* A taxpayer contracted in 1953 to purchase a new machine which he acquired in 1954 and put into first use in that year. He may use the methods referred to in paragraph (a) (1) above, in recovering the cost of the new machine.

*Example (2).* A taxpayer instead of reconditioning his old machine buys a "factory reconditioned" machine in 1954 to replace it. He can not apply the methods referred to in paragraph (a) (1) above, to any part of the cost of the reconditioned machine since he is not the first user of the machine.

*Example (3).* In 1954, a taxpayer buys a house for \$20,000 which had been used as a personal residence and thus had not been subject to depreciation allowances. He makes a capital addition of \$5,000 and rents the property to another. The taxpayer may use the methods referred to in paragraph (a) (1) above, only with respect to the \$5,000 cost of the addition.

(c) *Election to use methods.* Subject to the limitations set forth in paragraph (a) of this section, the methods of computing the allowance for depreciation specified in section 167 (b) (2) (3), and (4) may be adopted without permission and no formal election is required. In order for a taxpayer to elect to use these methods for any property described in paragraph (a) of this section, he need only compute depreciation thereon under any of these methods for any taxable year ending after December 31, 1953, in which the property may first be depreciated by him. The election with respect to any property shall not be binding with respect to acquisitions of similar property in the same year or subsequent years which are set up in separate accounts. If a taxpayer has filed his return for a taxable year ending after December 31, 1953, for which the return is required to be filed on or before the 90th day following the promulgation of these regulations under section 167, an election to

compute the depreciation allowance under any of the methods specified in section 167 (b) or a change in such an election may be made in an amended return or claim for refund filed on or before such 90th day.

§ 1.167 (d) *Statutory provisions; depreciation; agreement as to useful life on which depreciation rate is based.*

Sec. 167. Depreciation. \* \* \*

(d) *Agreement as to useful life on which depreciation rate is based.* Where, under regulations prescribed by the Secretary or his delegate, the taxpayer and the Secretary or his delegate have, after the date of enactment of this title, entered into an agreement in writing specifically dealing with the useful life and rate of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the Secretary in the absence of facts or circumstances not taken into consideration in the adoption of such agreement. The responsibility of establishing the existence of such facts and circumstances shall rest with the party initiating the modification. Any change in the agreed rate and useful life specified in the agreement shall not be effective for taxable years before the taxable year in which notice in writing by registered mail is served by the party to the agreement initiating such change.

§ 1.167 (d)-1 *Agreement as to useful life and rates of depreciation.* After August 16, 1954, a taxpayer may, for taxable years ending after December 31, 1953, enter into an agreement with respect to the estimated useful life, method, and rate of depreciation of any property which is subject to the allowance for depreciation. An application for such agreement may be made to the district director of internal revenue for the district in which the taxpayer's return is required to be filed. Such application shall be filed in quadruplicate and shall contain in such detail as may be practical the following information:

(a) The character and location of the property.

(b) The original cost or other basis and date of acquisition.

(c) Proper adjustments to the basis including depreciation accumulated to the first taxable year to be covered by the agreement.

(d) Estimated useful life and estimated salvage value.

(e) Method and rate of depreciation.

(f) Any other facts and circumstances pertinent to making a reasonable estimate of the useful life of the property and its salvage value.

The agreement must be in writing and must be signed by the taxpayer and by the district director or such other person as is authorized by the Commissioner. The agreement must be signed in quadruplicate, and two of the signed copies will be returned to the taxpayer. The agreement shall set forth its effective date, the estimated remaining useful life, the estimated salvage value, and rate and method of depreciation of the property and the facts and circumstances taken into consideration in adoption of the agreement, and shall relate only to depreciation allowances for such property on and after the effective date of the agreement. Such an agreement shall be binding on both parties until such time as facts and circumstances which were

not taken into account in making the agreement are shown to exist. The party wishing to modify or change the agreement shall have the responsibility of establishing the existence of such facts and circumstances. Any change in the useful life or rate specified in such agreement shall be effective only prospectively, that is, it shall be effective beginning with the taxable year in which notice of the intention to change, including facts and circumstances warranting the adjustment of useful life and rate, is sent by registered mail by the party proposing the change to the other party. A copy of the agreement (and any modification thereof) shall be filed with the taxpayer's return for the first taxable year which is affected by the agreement (or any modification thereof). A signed copy should be retained with the permanent records of the taxpayer. For rules relating to changes in method of depreciation, see § 1.167 (e)-1 and section 446 and the regulations thereunder.

**§ 1.167 (e) Statutory provisions; depreciation, change in method.**

**SEC. 167. Depreciation. \* \* \***

(e) *Change in method.* In the absence of an agreement under subsection (d) containing a provision to the contrary, a taxpayer may at any time elect in accordance with regulations prescribed by the Secretary or his delegate to change from the method of depreciation described in subsection (b) (2) to the method described in subsection (b) (1).

**§ 1.167 (e)-1 Change in method—(a)**

*In general.* Any change in the method of computing the depreciation allowances with respect to a particular account is a change in method of accounting, and such a change will be permitted only with the consent of the Commissioner, except that the change from the declining balance method to the straight line method as provided in section 167 (e) shall be permitted without consent. See paragraph (b) of this section. A change in method of computing depreciation will be permitted only with respect to all the assets contained in a particular account as defined in § 1.167 (a)-7. Any change in the percentage of the current straight line rate under the declining balance method or any change in the interest factor used in connection with a compound interest or sinking fund method will constitute a change in method of depreciation and will require the consent of the Commissioner. Any request for a change in method of depreciation shall be made in accordance with section 446 and the regulations thereunder and shall state the character and location of the property, method of depreciation being used and the method proposed, the date of acquisition, the cost or other basis and adjustments thereto, amounts recovered through depreciation and other allowances, the estimated salvage value, the estimated remaining life of the property, and such other information as may be required.

For rules covering the use of depreciation methods by acquiring corporations in the case of certain corporate acquisitions,

see section 381 (c) (6) and the regulations thereunder.

(b) *Declining balance to straight line.* In the case of an account to which the method described in section 167 (b) (2) is applicable, a taxpayer may change without the consent of the Commissioner, from the declining balance method of depreciation to the straight line method at any time during the useful life of the property under the following conditions. Such a change may not be made if a provision prohibiting such a change is contained in an agreement under section 167 (d). When the change is made, the unrecovered cost or other basis (less a reasonable estimate for salvage) shall be recovered through annual allowances over the estimated remaining useful life determined in accordance with the circumstances existing at that time. With respect to any account, this change will be permitted only if applied to all the assets in the account as defined in § 1.167 (a)-7. The taxpayer shall furnish a statement, with respect to the property which is the subject of the change, showing the date of acquisition, cost or other basis, amounts recovered through depreciation and other allowances, the estimated salvage value, the character of the property, the remaining useful life of the property, and such other information as may be required. The statement shall be attached to the taxpayer's return for the taxable year in which the change is made. A change to the straight line method must be adhered to for the entire taxable year of the change and for all subsequent taxable years unless, with the consent of the Commissioner, a change to another method is permitted.

**§ 1.167 (f) Statutory provision, depreciation; basis for depreciation.**

**SEC. 167. Depreciation. \* \* \***

(f) *Basis for depreciation.* The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011 for the purpose of determining the gain on the sale or other disposition of such property.

**§ 1.167 (f)-1 Basis for depreciation.**

The basis upon which the allowance for depreciation is to be computed with respect to any property shall be the adjusted basis provided in section 1011 for the purpose of determining gain on the sale or other disposition of such property. In the case of property which has not been used in the trade or business or held for the production of income and which is thereafter converted to such use, the fair market value on the date of such conversion, if less than the adjusted basis of the property at that time, is the basis for computing depreciation.

**§ 1.167 (g) Statutory provision, depreciation, life tenants and beneficiaries of trusts and estates.**

**SEC. 167. Depreciation. \* \* \***

(g) *Life tenants and beneficiaries of trusts and estates.* In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed

to the life tenant. In the case of property held in trust, the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. In the case of an estate, the allowable deduction shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of the income of the estate allocable to each.

**§ 1.167 (g)-1 Life tenants and beneficiaries of trusts and estates.** In the case of property held by one person for life with remainder to another person, the deduction for depreciation shall be computed as if the life tenant were the absolute owner of the property so that he will be entitled to the deduction during his life, and thereafter the deduction, if any, shall be allowed to the remainderman. In the case of property held in trust, the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the will, deed, or other instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income which is allocable to the trustee and the beneficiaries, respectively. For example, if the trust instrument provides that the income of the trust computed without regard to depreciation shall be distributed to a named beneficiary, such beneficiary shall be entitled to the depreciation allowance to the exclusion of the trustee, while if the instrument provides that the trustee in determining the distributable income shall first make due allowance for keeping the trust corpus intact by retaining a reasonable amount of the current income for that purpose, the allowable deduction shall be granted in full to the trustee. In the case of an estate, the allowable deduction shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of income of the estate which is allocable to each. See section 642 (e) and the regulations thereunder for rules applicable to the allocation of income of estates and trusts.

**§ 1.167 (h) Statutory provisions; depreciation, depreciation of improvements in the case of mines, etc.**

**SEC. 167. Depreciation. \* \* \***

(h) *Depreciation of improvements in the case of mines, etc.* For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

**§ 1.167 (h)-1 Depreciation of improvements in the case of mines, etc.** Property used in the trade or business or held for the production of income which is subject to the allowance for depreciation provided in section 611 shall be treated for all purposes of the Internal Revenue Code of 1954 as if it were property subject to the allowance for depreciation under section 167. The preceding sentence shall not limit the allowance for depreciation otherwise allowable under section 611.

[F. R. Doc. 55-9155; Filed, Nov. 9, 1955; 1:14 p. m.]

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 17 CFR Part 281

## COTTON SAMPLING

## PROPOSED REVISED REGULATIONS FOR COTTON CLASSIFICATION AND MARKET NEWS SERVICES FOR ORGANIZED GROUPS OF PRODUCERS

Notice is hereby given that the United States Department of Agriculture is considering a revision of the regulations governing cotton classification and market news services for organized groups of producers (7 CFR 28.901-28.918), pursuant to authority contained in the Cotton Statistics and Estimates Act of March 3, 1927, as amended (50 Stat. 62; 7 U. S. C. 473a, b, and c)

The proposed revision would incorporate details as to the drawing, handling, and submitting of samples for classification, and the bonding requirements for certain samplers.

The proposed amendment would delete the undesignated center head immediately preceding § 28.906, and §§ 28.906 through 28.910, substituting therefor the following:

## SAMPLING

§ 28.906 *Approval and bonding of samplers.* The cotton of members of organized groups may be sampled at a cotton gin, or at a warehouse which issues negotiable warehouse receipts. Sampling agents at these sampling locations are subject to the approval of the Administrator or his representatives. Each sampling agent, other than an approved warehouse sampler or an employee of the Department of Agriculture, serving one or more cotton gins shall, as a condition for approval, execute and file with the Service a good and sufficient bond to the United States to secure the faithful performance of his duties as a sampler under the terms of the act and this subpart. Said bond shall be in such form and amount and shall have such surety or sureties as shall be approved by the Service: *Provided*, That said bond shall be in an amount not less than \$1,000 for each gin serviced less than five, and not less than \$5,000 for five

or more gins serviced: *Provided further*, That such surety or sureties shall be subject to service of process in suits on the bond within the State, district, or territory in which such sampler shall perform services under the act and this subpart.

§ 28.907 *Responsibilities of sampling agents.* Each sampling agent shall be primarily responsible for drawing, identifying, handling, and shipping samples of cotton in accordance with this subpart and with instructions furnished by the Administrator or his representatives from time to time.

§ 28.908 *Samples*—(a) *Only one sample to be submitted.* Only one sample from each bale of eligible cotton shall be submitted for classification under this subpart. This does not prohibit the submission of an additional sample from a bale for review classification or reclassification on a fee basis if the producer so desires.

(b) *Drawing of samples manually.* Each cut sample shall be drawn from the bale after it is tied out following the ginning process, and shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale.

(c) *Mechanical sampling.* Samples may be drawn at gins equipped with mechanical samplers approved by the Service. Such samples shall be not less than 6 ounces in weight.

(d) *Samples must be representative.* Each sample must be representative of the bale from which drawn.

(e) *Handling samples.* Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Samples shall not be handled by any person other than the sampling agent prior to shipment or delivery to the cotton classing office of the Service.

(f) *Identifying and shipping samples.* Each sample shall be identified with a tag, supplied or approved by the Service, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address

of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the sampling agent for the organized group. The packages shall be shipped or delivered direct to the cotton classing office designated by the Service.

§ 28.909 *Costs.* Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be without expense to the Government, but tags and containers for the shipment of samples may be furnished and shipping charges by common carriers paid by the Service. After classification the samples shall become the property of the Government.

## CLASSIFICATION

§ 28.910 *Classification of samples.* The samples submitted as provided in this subpart shall be classified by employees of the Service and a classification memorandum showing the grade and staple length of each sample according to the official cotton standards of the United States will be mailed or made available to the producer whose name appears on the tag accompanying the sample, or to a representative designated by the producer or the organized group to receive the classification memorandum.

Any interested person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them with the Director, Cotton Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., not later than 15 days after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 8th day of November 1955.

[SEAL] FRANK E. BLOOD,  
Acting Deputy Administrator  
Agricultural Marketing Service.

[F. R. Doc. 55-9131; Filed, Nov. 10, 1955; 8:47 a. m.]

## NOTICES

## DEPARTMENT OF THE TREASURY

## Foreign Assets Control

## HAIR OF CERTAIN ANIMALS, AND COTTON AND SILK WASTE; IMPORTATION FROM COUNTRIES NOT IN AUTHORIZED TRADE TERRITORY

## APPLICATIONS FOR LICENSES

Notice is hereby given that the Treasury Department is now prepared to consider applications for licenses under the Foreign Assets Control Regulations (31 CFR 500.101 to 500.808) for the importation during 1956 of limited quantities of the following commodities from countries (other than Communist China and

North Korea) not in the authorized trade territory:

Badger hair.  
Camel hair.  
Cotton waste.  
Coat hair.  
Horse mane hair, horse tail hair and other horse hair.  
Silk waste.  
Yak hair.

Applications must be filed on or before December 2, 1955.

Any person interested in importing any of the above-named commodities from a country (other than Communist China and North Korea) not in the authorized trade territory may obtain additional information and license applica-

tion forms from the Foreign Assets Control, Treasury Department, Washington 25, D. C.

Attention is directed to the fact that the term "authorized trade territory" is defined in § 500.322 of the Foreign Assets Control regulations and that the term "countries (other than Communist China and North Korea) not in the authorized trade territory" as used herein includes Albania, Bulgaria, Czechoslovakia, the Eastern Zone of Germany, the Eastern Sector of Berlin, Estonia, Hungary, Laos (only those areas under Communist control), Latvia, Lithuania, Outer Mongolia, Poland and Danzig, Roumania, the Union of Soviet

Socialist Republics, and Viet-Nam (only those areas under Communist control)

[SEAL] ELTING ARNOLD,  
Acting Director  
Foreign Assets Control.

[F. R. Doc. 55-9119; Filed, Nov. 10, 1955;  
8:45 a. m.]

#### FIRECRACKERS

IMPORTATION FROM HONG KONG AND  
MACAO

Notice is hereby given that the Treasury Department, on the basis of information in its possession as to the availability for importation into the United States of firecrackers which are not of Communist Chinese or North Korean origin, is now prepared to consider applications for licenses under the Foreign Assets Control regulations (31 CFR 500.101-500.808) for the importation during the first six months of 1956 of a limited quantity of firecrackers from Hong Kong and Macao. Applications must be filed on or before December 2, 1955.

Any person interested in importing such firecrackers may obtain additional information and license application forms from the Foreign Assets Control, Treasury Department, Washington 25, D. C.

[SEAL] ELTING ARNOLD,  
Acting Director  
Foreign Assets Control.

[F. R. Doc. 55-9120; Filed, Nov. 10, 1955;  
8:45 a. m.]

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

AMARILLO STOCKYARDS, INC.

##### DEPOSTING OF STOCKYARD

It has been ascertained that the Amarillo Stockyards, Inc., Amarillo, Texas, originally posted on December 7, 1949, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.) no longer comes within the definition of a stockyard under said act for the reason that it is no longer being conducted or operated as a public livestock market. Therefore, notice is given to the owners of the stockyard and to the public that such livestock market is no longer subject to the provisions of the act.

Notice of public rule making has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impractical. There is no legal warrant or justification for not deposing promptly a stockyard which no longer is within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction, and, therefore, may be made effective in less than 30 days after publication thereof in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U. S. C. 181 et seq.)

Done at Washington, D. C., this 7th day of November 1955.

[SEAL] H. E. REED,  
Director Livestock Division,  
Agricultural Marketing Service.

[F. R. Doc. 55-9135; Filed, Nov. 10, 1955;  
8:48 a. m.]

### DEPARTMENT OF COMMERCE

#### Federal Maritime Board

MATSON NAVIGATION CO. AND REDERIAK-  
TIEBOLAGET NORDSTJERNAN (JOHNSON  
LINE)

NOTICE OF AGREEMENT FILED WITH THE  
BOARD FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. 814.

Agreement No. 8052, between Matson Navigation Company and Rederiaktiebolaget Nordstjerneran (Johnson Line) covers the transportation of canned pineapple on through bills of lading from Hawaii to Europe, with transshipment at ports on the Pacific Coast of the United States.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Board.

Dated: November 8, 1955.

[SEAL] A. J. WILLIAMS,  
Secretary.

[F. R. Doc. 55-9126; Filed, Nov. 10, 1955;  
8:46 a. m.]

### CIVIL AERONAUTICS BOARD

[Docket No. 7422; Order No. E-9721]

TAN AIRLINES ET AL.

#### ORDER INSTITUTING INVESTIGATION<sup>1</sup>

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 8th day of November 1955.

In the matter of a complaint and petition of TAN Airlines regarding an agreement filed pursuant to section 412 (a) of the Civil Aeronautics Act of 1938, as amended, between National Airlines, Inc. and certain other air carriers, foreign air carriers and other carriers relating to the regulation and conduct of the Regional Traffic Conference of the International Air Transport Association (IATA)

The Board by Order No. E-9305 dated June 15, 1955, extended its approval of

<sup>1</sup>Of proper applicability of IATA resolutions to interline agreements involving domestic segments of IATA members.

Agreement C. A. B. No. 1175 relating to the establishment, regulation and conduct of Regional Traffic Conferences of IATA subject to certain conditions prescribed therein, and has approved various resolutions establishing minimum fares adopted by such Regional Traffic Conferences of IATA.

By complaint and petition filed September 27, 1955, in Docket No. 7422, Transportes Aereos Nacionales, S. A. (TAN Airlines) complained against the cancellation by National Airlines, Inc. (National) of an interline agreement (CAB No. 5590 approved by Order No. E-5851) between TAN Airlines and National, whereby each carrier agreed to accept tickets issued by the other in through transportation of passengers over the routes of the two carriers. The complaint stated that National withdrew from such interline agreement for the reason that National's participation in through transportation with TAN would undercut IATA minimum fares between points on National's system and points on TAN's system in violation of IATA minimum fare resolution. TAN's complaint alleged, inter alia, that the Board's approval of the pertinent IATA resolutions establishing minimum fares cannot properly be interpreted as covering the combination of a fare for a domestic segment with a non-IATA foreign carrier's fares, the total of which may be less than IATA minimum fares, and that such an interpretation would be contrary to the Civil Aeronautics Act and would result in unjust discrimination in violation of section 404 (b) of the act.

TAN requested that the Board's Order No. E-9305 be amended to show that the Board's approval of IATA agreements and resolutions was inapplicable to through fares where the fare over a domestic segment of an IATA member forms a part of the through fare or, in the alternative, that an investigation be instituted of the IATA conference rate making procedure, and for such other relief as the Board may find just and proper.

National by answer requested dismissal of TAN's complaint, alleging that the interline agreement specifically provided that it may be cancelled on thirty days' notice without arbitration and that there is no statutory duty upon National to provide through service in foreign air transportation. National's answer did not deny TAN's allegation that it terminated the interline agreement with TAN for the reason that operations under such agreement were in violation of IATA resolutions.

The Board has previously received informal complaints urging that if it is determined that IATA rate resolutions extend to fares for domestic segments of foreign air transportation, that such resolutions be disapproved as adverse to the public interest.<sup>2</sup>

<sup>2</sup>Informal complaint filed May 27, 1955, on behalf of Aerovias Panama, S. A. (APA). In declining to institute an investigation on its own motion, the Board advised APA that this conclusion was not a determination of what the Board action would be upon a formal complaint stating the bases for investigation supplementing those set forth in the letter complaint.

IATA resolutions in substance provide that the fares of member carriers shall be not less than prescribed minimum fares established between named points. The standard IATA interline agreement, as entered into by National and TAN, provides that each carrier is authorized to issue tickets for the transportation of passengers over the routes of others, and that each carrier will honor tickets issued by the other and contemplates the offering by the carriers of through transportation over connecting routes of the two carriers. Pursuant to this agreement, the carriers held out to the public, and provided such through transportation. While the fare over the connecting routes was the sum of the fares applicable over the respective segments, such total fare is deemed a through<sup>3</sup> fare in which each carrier participates.

It therefore appears that the IATA fare resolutions, as approved by the Board, would prohibit a member carrier from entering into an agreement with another carrier to provide through transportation at fares less than IATA minimum fares, even if only an overseas or domestic segment of the IATA member is involved.

Since the bulk of the domestic transportation from the United States gateways is supplied by carriers who are IATA members by virtue of international operations carried on by other divisions of the same carrier, the IATA resolutions may effectively restrict the opportunity of non-IATA carriers to serve non-gateway points in the United States by combination over United States domestic segments.

Such extension of the effect of IATA agreements to domestic operation raises serious public interest questions which require investigation.<sup>4</sup>

<sup>3</sup>Through route has been defined by the Supreme Court in *Thompson v. U. S.*, 343 U. S. 549, 556 (1952). "A 'through route' is an arrangement, express or implied, between connecting railroads for the continuous carriage of goods from the originating point on the line of one carrier to destination on the line of another. Through carriage implies a 'through rate'. This 'through rate' is not necessarily a 'joint rate'. It may be merely an aggregation of separate rates fixed independently by the several carriers forming the 'through route'; as where the 'through rate' is 'the sum of the locals' on the several connecting lines or is the sum of lower rates otherwise separately established by them for through transportation. Through Routes and Through Rates, 12 I. C. C. 163, 166."

<sup>4</sup>TAN's complaint presents the specific question as to whether it is adverse to the public interest for an IATA agreement to prohibit a member carrier from using its published fares on domestic segments in foreign air transportation for through transportation where the resulting through fare is below the IATA minimum. We will consider in this proceeding, however, to what extent, if any, it is adverse to the public interest for IATA minimum fare resolutions to restrict member carriers from entering into through route arrangements involving only their domestic or oversea segments together with the foreign segments of non-IATA carriers where the through fares applicable thereto are less than IATA minimum fares.

Accordingly, pursuant to the provisions of the act, particularly sections 405 (a), 412, and 1002:

*It is ordered, That:*

1. An investigation be and hereby is instituted to determine whether and to what extent IATA resolutions adopted pursuant to Agreement CAB No. 1175, insofar as they restrict the right of an IATA member to enter into an interline agreement with a non-IATA member to provide through transportation over a route involving only a domestic or overseas segment of the IATA member, may be adverse to the public interest, and to formulate such conditions on Board approval of such IATA resolutions as shall be found appropriate.

2. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated.

3. Copies of this order be served upon all air carrier parties to the resolutions and agreements, and upon Transportes Aereos Nacionales, S. A., and upon Aerovias Panama, S. A.

4. This order be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL]

M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 55-9136; Filed, Nov. 10, 1955;  
8:49 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 54-132 etc.]

ENGINEERS PUBLIC SERVICE CO. ET AL.

NOTICE OF AND ORDER FOR HEARING WITH  
RESPECT TO CLAIM FOR ADDITIONAL FEES  
AND DISBURSEMENTS

NOVEMBER 4, 1955.

In the matter of Engineers Public Service Company, File No. 54-132; El Paso Electric Company, File No. 70-1149; Gulf States Utilities Company, File No. 70-1150; Virginia Electric and Power Company, File No. 70-1419.

The Commission having on January 8, 1947, approved a plan of reorganization for Engineers Public Service Company ("Engineers"), a registered holding company, pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935, but having reserved jurisdiction over all fees and expenses incurred or to be incurred in connection with said Plan (Engineers Public Service Company et al., 25 S. E. C. 37) and

Applications for the approval of fees and expenses in connection with said plan having been filed with the Commission during the year 1949, including an application by Louis Boehm and Raymond L. Wise, wherein the persons last named requested fees in the amount of \$35,892 and reimbursement of expenses in the amount of \$1,220.67; and

The Commission having on March 26, 1952 issued its order providing, among other things, that said Louis Boehm and Raymond L. Wise should be paid the

sum of \$2,500 together with certain specified cash disbursements (Holding Company Act Release No. 11036) and

The Commission having filed with the United States District Court for the District of Delaware its Supplemental Application No. 2 for an order enforcing the Commission's said order of March 26, 1952; objections to said Supplemental Application No. 2 having been filed by various parties including Louis Boehm and Raymond L. Wise; and said Court having on February 16, 1954, after hearings, entered an order, which among other things, directed Engineers to pay to Louis Boehm and Raymond L. Wise the sum of \$35,892 for fees and \$1,220.67 for expenses; and

On April 5, 1955, upon appeal by the Commission, said order of the United States District Court of February 16, 1954, having been affirmed by the United States Court of Appeals for the Third Circuit; and

The Commission having on June 14, 1955, issued its supplemental order (Holding Company Act Release No. 12921) amending its order of March 26, 1952, so as, among other things, to direct the payment by Engineers to Louis Boehm and Raymond L. Wise of \$35,892 for fees and \$1,220.67 for expenses, which amounts have now been paid by Engineers to Louis Boehm and Raymond L. Wise; and

The Commission's order of June 14, 1955, provided that it should be "without prejudice, however, to whatever rights the applicants would otherwise have to make application hereafter for supplemental allowances of compensation and reimbursement of expenses incurred by said applicants subsequent to the filing in 1949 of their original applications;" and

Engineers having now filed a petition setting forth that Louis Boehm and Raymond L. Wise contend that they are legally entitled to an allowance as a charge to Engineers of the full value of their legal services since the filing of their fee application in 1949, in connection with establishing their rights to allowances as finally fixed by the Courts and the Commission together with their disbursements in connection therewith, and that Engineers is of the opinion that said applicants are not entitled to any further allowances for services and disbursements by reason of, or in connection with, services rendered since the filing of their application in 1949, and requesting that the Commission set down for hearing the claim of Louis Boehm and Raymond L. Wise against Engineers, and that the Commission, after such hearing, fix the amount of the additional fees and expenses, if any, to be paid by Engineers to Louis Boehm and Raymond L. Wise; and

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the claim asserted by Louis Boehm and Raymond L. Wise against Engineers:

*It is ordered, That a hearing be held on the claim of Louis Boehm and Ray-*

mond L. Wise as aforesaid, which hearing shall commence on December 6, 1955, at 10:00 a. m. at the office of the Commission, Washington, D. C. On such date the hearing room clerk in room 193 will advise as to the room in which the hearing will be held. Any person who is not already a party, or who has not been granted leave to participate in the above-entitled proceedings, and who desires to be heard or otherwise to participate in such hearing shall file with the Secretary of this Commission on or before December 5, 1955, a request relative thereto as provided in Rule XVII of the Commission's rules of practice.

*It is further ordered*, That William W Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing. The officer or officers so designated is and are hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation of the Commission having advised the Commission that it has made a preliminary examination of the aforesaid petition filed by Engineers with respect to said claim for fees and disbursements, and that on the basis thereof the following matters and questions are presented, without prejudice, however, to the presentation of additional matters and questions upon further examination:

1. Whether the activities of Louis Boehm and Raymond L. Wise subsequent to the filing of their original application for fees and expenses in 1949, together with their disbursements in connection therewith, are compensable and whether it is lawful and appropriate to grant any allowances from the estate of Engineers on account thereof;

2. Whether the fees and disbursements requested by Louis Boehm and Raymond L. Wise were incurred in rendering services which were necessary in connection with the reorganization plan of Engineers;

3. If Louis Boehm and Raymond L. Wise are entitled to additional compensation or reimbursement for additional expenses, what amounts, if any, should be allowed.

*It is further ordered*, That particular attention be directed at the hearing to the foregoing matters and questions.

*It is further ordered*, That the Secretary of the Commission shall serve a copy of this notice and order by registered mail on Engineers and on Louis Boehm and Raymond L. Wise; and that notice of the entry of this notice and

order shall be given to all other persons by general release of the Commission which shall be distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and by publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F. R. Doc. 55-9121; Filed, Nov. 10, 1955; 8:46 a. m.]

[Files Nos. 7-1737-7-1767, inclusive]

LOS ANGELES STOCK EXCHANGE

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

NOVEMBER 7, 1955.

The Los Angeles Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the 31 stocks itemized below. All of these stocks are listed and registered on the New York Stock Exchange and multiple listings include 3 on Boston, 1 on De-

troit, 5 on Midwest, and 10 on San Francisco Stock Exchanges. Altogether, 19 of the stocks are admitted to listed or unlisted trading on the San Francisco Stock Exchange, a purpose of this application being to enhance the usefulness of the direct wire recently installed between the San Francisco and Los Angeles Stock Exchanges. The distribution and volume figures in the first two columns are according to issuers and in the remaining columns according to members.

Upon receipt of a request prior to November 30, 1955, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take thereat. If no one requests a hearing, the application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

LOS ANGELES STOCK EXCHANGE—EXHIBIT TO APPLICATION FOR UNLISTED TRADING PRIVILEGES, Oct. 31, 1955

Name of issuer, title of security	Public distribution in vicinity of the Exchange				Public trading volume July 1 to Sept. 30, 1955	
	Holders	Shares	Accounts	Shares	Transactions	Shares
ACF Brill Motors Co., Com. \$2.50 p. v. ....	546	30,650	33	10,820	95	10,030
AOF Industries, Inc., Com. \$25 p. v. <sup>1</sup> .....			62	5,095	27	4,645
Air Reduction Co., Inc., Com. no p. v. <sup>1</sup> .....			84	9,430	68	4,014
Aluminum, Ltd., Com., no p. v. <sup>1</sup> .....			75	6,130	63	4,257
American-Bosch Arms Corp., Com. \$2 p. v. ....			125	10,429	79	7,152
Bell Aircraft Corp., Com., \$1 p. v. ....			102	12,050	47	8,625
Burrughs Corp., Com., \$5 p. v. <sup>1</sup> .....	770	203,300	141	11,627	42	2,710
Canada Dry Ginger Ale, Inc. Com., \$1.66 <sup>2</sup> / <sub>3</sub> p. v. <sup>1</sup> .....			89	11,313	40	3,364
Columbia B'cstg System, Inc., "A" \$2.50 p. v. <sup>1</sup> .....			72	9,906	37	3,125
Columbia B'cstg System, Inc., "B" \$2.50 p. v. <sup>1</sup> .....			31	5,202	14	1,811
Corn Products Ref. Co., Com., \$25 p. v. <sup>1</sup> .....	1,147	269,606	74	8,871	52	4,413
Crane Company, Com. \$25 p. v. ....			132	10,548	57	4,432
Electric Auto-Lite Co., Com. \$5 p. v. ....			170	11,527	130	7,993
Fairchild Engine & Airplane Corp., Com. \$1 .....			234	48,809	97	12,243
Gillette Company (The) Com. \$1 p. v. <sup>1</sup> .....	800	397,048	60	5,043	43	2,335
Grace (W. R.) & Co., Com. \$1 p. v. ....	1,182	156,456	69	4,703	42	21,483
Granite City Steel Co., Com., \$12.50 p. v. ....	481	50,148	78	8,365	68	4,402
Howe Sound Co., Com., \$1 p. v. ....	710	75,671	662	102,625	113	16,690
Macy (R. H.) & Co., Inc., Com., no p. v. <sup>1</sup> .....			175	9,979	28	1,555
Merritt-Chapman & Scott Corp., Com., \$12.50 .....	1,303	131,042	380	57,875	184	20,478
Rayonier, Inc., Com., \$1 p. v. <sup>1</sup> .....	406	339,099	69	15,033	45	3,333
Royal Dutch Petroleum Co. 50 guilders p. v. <sup>1</sup> .....			210	15,410	132	8,913
St. Joseph Lead Co., Cap., \$10 p. v. <sup>1</sup> .....	455	52,822	146	7,712	39	3,541
Schering Corp., Com., 15 cents p. v. ....			96	11,055	43	4,531
Spiegel, Inc., Com., \$2 p. v. <sup>1</sup> .....			112	22,721	26	4,517
Sterling Drug, Inc., Com., \$5 p. v. <sup>1</sup> .....			97	6,553	46	2,701
TXL Oil Corp. (The), Com., \$1 p. v. ....	492	148,705	78	16,035	50	6,030
United Fruit Co., Cap., no p. v. <sup>1</sup> .....	2,643	195,519	284	18,139	114	6,535
U. S. Smelting, Ref., & Mng. Co. Com., \$50 <sup>1</sup> .....	129	12,044	40	6,035	20	1,030
Warren Petroleum Corp. Com., \$3 p. v. <sup>1</sup> .....	169	12,822	37	8,015	21	2,437
Western Pacific R. R. Co., Com., no p. v. <sup>1</sup> .....	281	24,727	73	8,339	40	4,093

<sup>1</sup> Indicates security presently traded on the San Francisco Stock Exchange.

[F. R. Doc. 55-9122; Filed, Nov. 10, 1955; 8:46 a. m.]